

Bond Case Briefs

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PUBLIC UTILITIES - CALIFORNIA

T-Mobile West LLC v. City and County of San Francisco

Supreme Court of California - April 4, 2019 - P.3d - 2019 WL 1474847 - 19 Cal. Daily Op. Serv. 3067

Wireless telephone service providers brought action against city for declaratory and injunctive relief challenging city's wireless facility site permit ordinance.

The Superior Court granted summary adjudication for city on providers' claims that the ordinance violated a state wireless facility permit statute and California Environmental Quality Act (CEQA), but ruled in providers' favor in part, after bench trial, on claims that the ordinance violated the Public Utilities Code and the Middle Class Tax Relief and Job Creation Act. Providers appealed. The Court of Appeal affirmed. Providers sought review.

After grant of review, the Supreme Court of California held that:

- State statute providing that telephone corporations may construct lines and erect equipment along public roads in ways and locations that do not "incommode the public use of the road" did not preempt local regulation allowing city to condition permit approval for telephone line construction on aesthetic considerations, and
- Statute roads are "accessed" by wireless telephone corporations only applies to temporary access during construction and installation of telephone lines and equipment.