

Bond Case Briefs

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REFERENDA - CALIFORNIA

Howard Jarvis Taxpayers Association v. Amador Water Agency

Court of Appeal, Third District, California - June 14, 2019 - Cal.Rptr.3d - 2019 WL 2482624 - 19 Cal. Daily Op. Serv. 5597 - 2019 Daily Journal D.A.R. 5362

Voters' association brought petition for peremptory writ of mandate against water agency, challenging agency's rejection of referendum petition and refusal to place it on election ballot.

The Superior Court, Amador County denied petition. Association appealed.

The Court of Appeal held that:

- Water agency clerk's belief that referendum petition had been circulated without resolution attached did not provide basis for clerk to reject referendum petition, but
- Water agency resolution adopting new water service rates was a tax levy, and thus, under general referendum provision of constitution, voters lacked referendum power to approve or reject resolution.

Water agency clerk's belief, based on fact that pages of text of resolution did not have crease marks like the referendum petition signature pages did, that referendum petition had been circulated without resolution attached did not provide basis for clerk to reject referendum petition; reasonable minds could differ as to what inference was to be drawn from fact that signature pages showed more signs of wear than copies of resolution text.

Local water agency resolution adopting new water service rates was a tax levy, and thus, under general referendum provision of constitution, voters lacked referendum power to approve or reject resolution; rate were adopted to keep providing water services, which were essential government functions, and an inclusive definition of tax was consistent with general purpose of constitutional exceptions of general referendum provision, seeking to avoid implementation delays that could disrupt essential governmental operations.