

# **Bond Case Briefs**

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## **TELECOM - MISSOURI**

### **City of Aurora v. Spectra Communications Group, LLC**

**Supreme Court of Missouri, en banc - December 24, 2019 - S.W.3d - 2019 WL 7161281**

Cities brought declaratory judgment action against telecommunications company for failure to pay license taxes and linear foot fees and to enter right-of-way agreements.

The Circuit Court entered partial summary judgment in favor of cities, entered judgment in favor of cities after bench trial on damages for unpaid taxes, and awarded pre- and post-judgment interest and attorney fees. Company appealed, and cities filed cross-appeal.

The Supreme Court held that:

- Grandfather provision allowing political subdivisions to recover payments from public utility right-of-way users satisfied rational basis test and thus was not special law prohibited by state constitution, abrogating *City of Normandy v. Greitens*, 518 S.W.3d 183, *City of DeSoto v. Nixon*, 476 S.W.3d 282, *City of St. Louis v. State*, 382 S.W.3d 905, *City of Springfield v. Sprint Spectrum, L.P.*, 203 S.W.3d 177, *Treadway v. State*, 988 S.W.2d 508, *Harris v. Mo. Gaming Comm'n*, 869 S.W.2d 58, *O'Reilly v. City of Hazelwood*, 850 S.W.2d 96;
- Prejudgment interest at rate of nine percent under general prejudgment interest statute applied to unpaid license taxes only until effective date of more specific statutes;
- Ordinance allowing for interest rate of two percent per month, not to exceed 18% per year, was void as conflicting with statutes imposing lower rates on unpaid license taxes;
- Cities were not entitled to attorney fees; and
- Statute imposing penalty on unpaid tax, unless failure to pay was due to reasonable cause and not the result of willful neglect, evasion, or fraudulent intent, could be applied retroactively to void conflicting city ordinances.

If line drawn by the legislature is supported by a rational basis, the law is not local or special, and the analysis ends; but if the classification is not supported by a rational basis, the threshold requirement for a special law is met, and the party challenging the statute must then proceed to show either that the law offends a specific subject matter prohibition or that the law is one where a general law can be made applicable; abrogating *City of Normandy v. Greitens*, 518 S.W.3d 183, *City of DeSoto v. Nixon*, 476 S.W.3d 282, *City of St. Louis v. State*, 382 S.W.3d 905, *City of Springfield v. Sprint Spectrum, L.P.*, 203 S.W.3d 177, *Treadway v. State*, 988 S.W.2d 508, *Harris v. Mo. Gaming Comm'n*, 869 S.W.2d 58, *O'Reilly v. City of Hazelwood*, 850 S.W.2d 96.

Grandfather provision allowing political subdivisions to recover payments from public utility right-of-way users in excess of subdivision's management costs, if the subdivision had imposed linear foot fees on public right-of-way users prior to May 1, 2001, satisfied rational basis test and thus was not a special law prohibited by state constitution; the provision balanced reasonable reliance of political subdivisions on method of raising revenue with the legislature's desire to implement a policy against imposing such fees as a revenue generating device, and it was rational effort by the legislature to impose new policy without disrupting reasonable reliance of those that had acted lawfully before the policy change.

