

Bond Case Briefs

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FIRE PROTECTION SERVICE FEES - ALABAMA

Johnson v. Four-C Volunteer Fire Department

Supreme Court of Alabama - December 13, 2024 - So.3d - 2024 WL 5101169

Volunteer fire departments brought action against county revenue commissioner, in his official capacity, for a declaratory judgment as to the correct interpretation and implementation of a local act that established fire-protection service fees in the county and for a writ of mandamus requiring commissioner to assess and collect fees in accordance with the act.

After a bench trial, the Circuit Court entered order granting declaratory relief in favor of volunteer fire departments with respect to certain interpretations of the local act and issuing a writ of mandamus to the extent that commissioner was acting inconsistently with the declared interpretation of the act. Commissioner appealed.

In a case of first impression, the Supreme Court held that:

- Judgment was not entitled to an ore tenus-rule based presumption of correctness on appeal; Whether a delinquency in payment of the fees created a tax lien on the subject property was not an issue that was ripe for decision;
- Local act did not provide for the right to contest elections held under the act, and thus the failure of petitions that sought referendums to approve the fees to include a map or formal legal description of the fire districts did not warrant invalidating the fees as approved in the referendums;
- Term “business,” as it was used in the local act, meant any building, structure, or other improvement to real property that was used or expected to be used as business establishment that did not also meet definition of “dwelling”; and
- Term “dwelling,” as it was used in the local act, did not include fifth wheels, travel trailers, campers, and recreational vehicles (RVs).