

Bond Case Briefs

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DEVELOPMENT REBATES - TEXAS

Ex parte City of Irving Texas

Court of Appeals of Texas (15th Dist.) - December 19, 2024 - Not Reported in S.W. Rptr. - 2024 WL 5172273

In 2010, the City of Irving filed suit under the EDJA, seeking declarations as to the validity of a series of municipal bonds. The City planned to issue the bonds to fund the construction of an entertainment center and hotel.

The City planned to secure payment of the bonds, in part, with pledges of state taxes that the City anticipated receiving as rebates under Section 351.102 of the Texas Tax Code. The City also sought declarations that its proposed pledges of tax rebates were legal and valid.

The City's EDJA action was opposed by the Texas Attorney General.

The suit was resolved in 2011 by an agreed final judgment. In general, the final judgment determined and declared that the "Proposed Public Securities," i.e., the proposed municipal bonds, were valid and lawful and that, as provided by Section 351.102, the City was entitled to receive certain state tax rebates "for use as a portion of the security for the Proposed Public Securities." The City never issued the proposed bonds, and the hotel was never built.

In 2019, after the City built another hotel and entertainment center, the City applied to the Comptroller for rebates for the completed project. In support of its application, the City provided documents from the 2010 EDJA action, including the 2011 agreed final judgment.

After considering the information provided by the City, in July 2020, the Comptroller issued a final decision on the City's rebate request. In his letter, the Comptroller explained that the final judgment in the 2010 EDJA action did not resolve the issue as to whether the current project qualified for tax rebates under Section 351.102.

The Comptroller subsequently concluded that (1) the City was an "eligible central municipality," entitled to the requested rebates for state taxes paid or collected for the hotel, and (2) 19 of the other 25 businesses in the project, including restaurants and parking garages, were considered part of the "hotel project," and therefore the City was also entitled to the requested rebates for state taxes generated from these businesses. Conversely, the Comptroller concluded that six of the 25 businesses did not qualify for rebates.

The City then filed a "petition for supplemental relief" in the 2010 EDJA suit. In its petition, the City alleged that the agreed final judgment "conclusively establishes" that all businesses in the "Project Area" qualify for rebates under Section 351.102. Further, the City alleged that the hotel project as built is fundamentally the same as the hotel project originally proposed and thus is "within the Project Area," as that term is used in the final judgment. Thus, the City asked the trial court to "enforce" the EDJA final judgment by ordering the Comptroller to pay the tax rebates it had denied on the new hotel project.

The Court of Appeals disagreed with the City's contention that its petition for supplemental relief constitutes an enforcement action. Instead, the City seeks relief that, if granted, would constitute "a material change in the substantive adjudicative portions" of the final judgment. In effect, the City seeks to expand or modify the substantive terms of the judgment. Because the trial court's plenary jurisdiction to grant such relief has long expired, any action taken by the trial court on the City's petition would be void. "Consequently, we conclude that the trial court erred in denying the Comptroller's plea to the jurisdiction."