Bond Case Briefs

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Save South Boulder v. The City of Boulder, Colorado

Colorado Court of Appeals, Division III - August 20, 2026 - Not Reported in Pac. Rptr. - 2026 WL 2456739

In March 2025, Boulder adopted an emergency ordinance (Ordinance 8690), authorizing Boulder's existing Stormwater and Flood Management Utility Enterprise (the Stormwater Enterprise) to issue $66 million in flood management revenue bonds (the Bonds) to fund a flood management project.

The bonds were to be paid off by a Stormwater and Flood Management Fee (the Stormwater Fee) billed to customers of Boulder's sewer and water system.

A citizens' group (Save South Bolder) sued the city, arguing that: 1) the Stormwater Fee was actually a tax subject to the Taxpayer's Bill of Rights (TABOR), thus requiring voter approval; 2) the Stormwater Enterprise was not an Enterprise under TABOR; and 3; Ordinance 8690 was improperly adopted by emergency decree because no emergency existed at the time it was adopted.

The District Court granted Boulder's motion for summary judgment, concluding that: 1) Ordinance 8690 was not the enabling statute for the Stormwater Fee; 2) the Stormwater Fee was not a tax subject to TABOR; 3) the Stormwater Enterprise was a valid TABOR Enterprise, and 4) Save South "failed to establish a genuine issue of material fact that would allow the court to second guess Boulder's emergency declaration."

Save South Boulder appealed. The Colorado Court of Appeals upheld the District Court's as to each issue raised by Save South Boulder.