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Northeast Ohio Regional Sewer Dist. v. Bath Twp.

Court of Appeals of Ohio, Eighth District, Cuyahoga County - September 26, 2013 - Slip Copy - 2013 -Ohio- 4186

Regional sewer district brought action against member communities, seeking declaratory judgment that district had authority to implement particular regional stormwater management (RSM) program. Property owners intervened. The Court of Common Pleas denied motion to dismiss, granted partial summary judgment to sewer district and, after bench trial, entered judgment in favor of district. Communities and property owners appealed.

The Court of Appeals held that:

- Statutes governing district did not grant district authority to promulgate regional stormwater management(RSM) program;
- Stormwater charge on property owners proposed by district to fund RSM program was unrelated to any use or services afforded to a property owner by a “water resource project” and thus was not authorized by statute; and
- RSM program was not authorized by district charter.

Sewer district’s RSM program was not authorized by sewer district charter defining purpose and scope of authority of district. Expansive scope of the “regional stormwater system” as defined by district went far beyond scope of sewage treatment and waste water handling facilities under charter to encompass entire system of watercourses and stormwater conveyance structures, and district did not go through charter amendment process.