

Bond Case Briefs

Municipal Finance Law Since 1971

ASSESSMENTS - WASHINGTON

Fury v. City of North Bend

Court of Appeals of Washington, Division 1 - October 21, 2013 - Not Reported in P.3d - 2013 WL 5743644

After receiving a petition for a sewer system improvement from property owners, the City passed an ordinance for construction of a vacuum system, specifying the cost would be approximately \$11.7 million. When the City then expanded the improvement district to accommodate more parcels, the City determined the increased size of the district required construction of a gravity sewer system, which would cost approximately \$19 million. The City did not pass a new ordinance specifying the material change in design and cost of the improvement; rather, it proceeded with construction and approved construction contracts by resolution.

Under RCW 35.43.100, the passage of the ordinance creating an improvement district triggers a 30-day window in which the affected property owners may file suit to challenge the improvement district.

Because the City did not pass a new ordinance after determining it would build a gravity system, the property owners did not have the opportunity to protest the substantially increased cost of the improvement under RCW 35.43.100. Rather, the appealing property owners had the opportunity to challenge the construction of the gravity system only after the assessments were imposed.

The appeals court annulled the assessments of the five parcels at issue, allowing the City to pursue a reassessment.