Bond Case Briefs

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FINANCE - COLORADO

Todd Creek Village Metropolitan District v. Valley Bank & Trust Company

Colorado Court of Appeals, Div. VI - November 21, 2013 - P.3d - 2013 COA 154

At issue in this appeal was whether the plaintiff, Todd Creek Village Metropolitan District (the special district), had the constitutional and statutory authority to enter into loans and security agreements with the defendant, Valley Bank & Trust Company (the bank), and to pledge the district's assets as collateral.

In 2004, the special district executed and delivered to the bank a $1.4 million line-of-credit promissory note with a one-year maturity date (the loan). The loan was secured by a deed of trust that encumbered real property owned by the special district, including two reservoirs, one well site, and four easements.

In late 2011, the parties were unable to agree to the terms of an extension. The special district filed an action seeking a declaratory judgment that the loans were invalid and did not need to be repaid because they violated the special district's service plan and the requirements of Colo. Const. art. XI, section 6. The district court agreed and granted the special district's request for declaratory judgment.

The appeals court identified two issues to be addressed: (1) whether Article XI, section 6(1) of the Colorado Constitution requires that a municipal district seeking voter approval of a general obligation debt must identify the specific collateral that will be pledged to secure the debt; and (2) the extent to which a special district's financing arrangements must be provided for in the special district's service plan.

As to the first issue, the appeals court disagreed with the special district's contention that section 6 requires the district to identify to voters the particular assets it intended to pledge to secure the loan along with the general obligation debt, and therefore, the pledges made by the special district of public assets to collateralize the loan were invalid.

As to the second issue, the appeals court agreed with the bank's contention that the district court erred in ruling that the loan to the special district was invalid based on the special district's service plan. The district court concluded that there was a conflict between the special district's statutory authority to enter into loans and the special district's service plan, which prohibited the issuance of general obligation debt. The appeals court concluded that the service plan did not prohibit the issuance of general obligation debt and that the loan by the bank did not constitute a material modification of the special district's service plan.

In summary, we conclude (1) the 1996 election approved general obligation bonds and 'other obligations' and the special district complied with the voter-approval mandate of Colo. Const. art. XI, section 6; (2) the Special District Act grants special districts the authority to 'borrow money and incur indebtedness [and] acquire, dispose of, and encumber real and personal property,' §§

32–1–1001(1)(e)–(f); (3) the special district's service plan does not prohibit the issuance of general obligation debt; (4) the Special District Act only requires that a special district conform to a service plan 'so far as practicable,' § 32–1–207(1); (5) only material modifications to the service plan had to be approved by the board of county commissioners; (6) there was no material modification of the district's service plan, and it was therefore unnecessary for the service plan to restate that the special district would be incurring general obligation debt. See generally Wick v. Pueblo W. Metro. Dist., 789 P.2d 457, 458 (Colo.App.1989)."