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MUNICIPAL ORDINANCE - CALIFORNIA

California Tow Truck Association v. City and County of San Francisco

Court of Appeal, First District, Division 4, California - April 23, 2014 - Cal.Rptr.3d - 14 Cal. Daily Op. Serv. 43262014 Daily Journal D.A.R. 5012

Towing company association brought action for declaratory and injunctive relief to challenge city's tow truck regulatory scheme. After removal to federal district court and remand of state claims, the Superior Court granted city's motion for judgment on the pleadings, and association appealed.

The Court of Appeal held that:

- City could regulate only those companies and drivers who maintained their principal place of business or employment in city, and
- City could collect fees to cover cost of tow truck regulation.

Statute permitting local authorities to license and regulate "the operation of tow truck service or tow truck drivers whose principal place of business or employment is within the jurisdiction of the local authority" did not allow city to regulate companies and drivers with substantial or consequential business within city, but rather allowed city to regulate only those companies and drivers who maintained their principal place of business or employment in that city.

Statute prohibiting a city from assessing "an excise or license tax of any kind, character, or description whatever upon the transportation business of any for-hire motor carrier of property" did not prohibit city from collecting fees to cover cost of tow truck regulation. Legislature had granted local authorities special permission to license and regulate towing businesses, and statute did not specifically address fees.