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New York Statewide Coalition of Hispanic Chambers of Commerce v. New York City Dept. of Health and Mental Hygiene

Court of Appeals of New York - June 26, 2014 - N.E.3d - 2014 N.Y. Slip Op. 04804

Coalition of interest groups, brought hybrid article 78/declaratory judgment proceeding against the New York City Department of Health and Mental Hygiene (DOHMH) and New York City Board of Health, challenging the constitutionality of an amendment to the New York City Health Code known as the “Sugary Drinks Portion Cap Rule” or the “Soda Ban,” which prohibited New York City restaurants, movie theaters, and other food service establishments) from serving certain sugary drinks in sizes larger than 16 ounces. The Supreme Court, New York County, granted the petition, declared the regulation invalid, and enjoined respondents from implementing or enforcing it. Respondents were granted leave to appeal. The Supreme Court, Appellate Division, affirmed. Respondents appealed.

The Court of Appeals held that:

- City Board of Health did not have inherent legislative powers separate and apart from City Council;
- City Board of Health, when promulgating Rule, chose between public policy ends, thereby engaging in law-making beyond its regulatory authority; and
- Board of Health, when promulgating Rule, did not supplement existing legislation.