

Bond Case Briefs

Municipal Finance Law Since 1971

TAX - CALIFORNIA

City of San Diego v. Shapiro

Court of Appeal, Fourth District, Division 1, California - August 1, 2014 - Cal.Rptr.3d - 14 Cal. Daily Op. Serv. 8797 - 14 Cal. Daily Op. Serv. 8813

California's Proposition 13 placed significant limits on the taxing power of local and state governments by requiring that "Cities, Counties and special districts, by a two-thirds vote of the *qualified electors of such district*, may impose special taxes on such district...."

Proposition 218 further provides that, "No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the *electorate* and approved by a two-thirds vote."

The City of San Diego held an election to authorize the levying of a special tax to help finance the potential expansion of the San Diego Convention Center. In the election, the City did not permit the City's registered voters to vote on the special tax. Instead, the City passed an ordinance that specifically defined the electorate to consist solely of (1) the owners of real property in the City on which a hotel is located, and (2) the lessees of real property owned by a governmental entity on which a hotel is located.

The election was challenged on the grounds that it failed to comply with the above-referenced provisions of the California Constitution.

The Court of Appeal held that:

- The election was invalid under the California Constitution because such landowners and lessees were neither "qualified electors" of the City, nor did they comprise a proper "electorate."
- The election was invalid under the provision of the City Charter requiring the approval of two-thirds of the "qualified electors" voting in an election on a special tax, as "qualified electors" are defined as persons who are registered to vote in general state elections under state law.