

# **Bond Case Briefs**

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## **BONDS - CALIFORNIA**

### **Golden State Water Company v. Casitas Municipal Water District**

**Court of Appeal, Second District, Division 6, California - April 14, 2015 - Cal.Rptr.3d - 15 Cal. Daily Op. Serv. 3592**

City residents, fed up with sky high water bills, voted to oust Golden State Water Company (Golden State), the private utility that monopolized water service to their City, and replace it with the newly-formed Casitas Municipal Water District (Casitas), a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982 (Mello-Roos Act or Act).

Casitas determined that the Mello-Roos Act would be an appropriate means of financing the transaction. Casitas passed resolutions listing the facilities to be acquired, declaring the necessity of raising bond revenue to finance their acquisition, and submitting the matter to voters for their approval in a special election. The ballot measure passed, authorizing Casitas to issue up to \$60 million in bonds to finance the acquisition of Golden State's property and property rights in the City.

Golden State was unwilling to sell its business, therefore Casitas planned to acquire the assets by eminent domain.

Golden State filed a reverse validation complaint and petition for writ of mandate seeking to invalidate and set aside Casitas's resolutions. The trial court ruled against Golden State on all issues. Golden State appealed, contending that the Mello-Roos Act cannot be used to finance a taking of property by eminent domain or the acquisition of intangible property and property rights.

The Court of Appeal held that:

- The Mello-Roos Act can be used to finance eminent domain actions, as the Act facilitates the purchase of property regardless of whether the seller consents to the sale or is compelled under force of law;
- Financing the acquisition of intangible property incidental to the real or tangible property being purchased is consistent with the Act's text and purpose;
- The legal costs associated with an eminent domain proceeding are properly classified as an incidental expense that can be financed under Mello-Roos; and
- The compensation to be received by Golden State from Casitas for its water rights and loss of goodwill are properly classified as incidental expenses that can be financed under Mello-Roos.