

Bond Case Briefs

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New Cingular Wireless PCS, LLC v. City of Clyde Hill

Court of Appeals of Washington, Division 1 - April 20, 2015 - P.3d - 2015 WL 1788055

Taxpayer that was assessed municipal fine for allegedly making false statements or misrepresentations in its utility tax returns brought action against city, seeking declaratory judgment that the municipal fine was invalid. The Superior Court entered summary judgment for city and dismissed taxpayer's complaint. Taxpayer appealed.

The Court of Appeals held that:

- Taxpayer was not limited to appellate review of city mayor's dismissal of its protest of the fine;
- Statute governing writs of review did not prohibit taxpayer from invoking trial court's original trial jurisdiction; and
- Taxpayer was not barred from seeking declaratory judgment, despite availability of appellate review as a remedy.

Provision of city code stating that determination by mayor regarding municipal fine was "final" unless a "judicial appeal" was filed in the superior court could not limit the superior court to its appellate jurisdiction and, thus, did not preclude taxpayer from bringing declaratory judgment action in superior court to challenge assessment of municipal fine for allegedly making false statements or misrepresentations in its utility tax returns.

Taxpayer was not limited to appellate review of city mayor's dismissal of its protest of municipal fine, imposed for allegedly making false statements or misrepresentations in its utility tax returns, and thus it could challenge the fine by invoking trial court's original trial jurisdiction by filing a declaratory judgment complaint, where no statute required appellate review or any specific procedure for challenging the legality of a municipal fine, and taxpayer had exhausted its administrative remedies.

Statute governing writs of review did not prohibit taxpayer, after dismissal of its protest by city mayor, from invoking trial court's original trial jurisdiction through declaratory judgment complaint to challenge the legality of a municipal fine, imposed for allegedly making false statements or misrepresentations in its utility tax returns. The statute provided a means of invoking trial court's appellate jurisdiction and explained the circumstances under which a writ of review should be granted, but the statute did not say that a writ of review was the exclusive means of resolving a dispute over the validity of a municipal fine.

Taxpayer was not barred from seeking declaratory judgment in action challenging legality of municipal fine, which taxpayer filed after city mayor dismissed its protest, even though an alternative remedy was available in that taxpayer could have challenged the mayor's decision by obtaining a writ of review. The availability of appellate review as a remedy was not an absolute bar to seeking declaratory judgment, and city identified no statute establishing strict procedural rules or short time limits in connection with the mayor's decision concerning the validity of the fine that would weigh against granting declaratory judgment as an alternative remedy.

