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Washington Suburban Sanitary Com'n v. Lafarge North America, Inc.

Court of Appeals of Maryland - June 18, 2015 - A.3d - 2015 WL 3777597

Operator of concrete plant petitioned for judicial review of failure by Washington Suburban Sanitary Commission (WSSC) to timely act on operator's request for refund of allegedly erroneous charges for water and sewer service. The Circuit Court remanded the matter to WSSC with directions to determine and issue an appropriate refund. WSSC appealed. The Court of Special Appeals affirmed. WSSC petitioned for certiorari.

The Court of Appeals held that:

- Court of Special Appeals had jurisdiction over WSSC's appeal, and
- Remand for calculation of amount of refund was appropriate.

Court of Special Appeals had appellate jurisdiction, under section of Administrative Procedure Act (APA) authorizing appeals in contested cases, over appeal by Washington Suburban Sanitary Commission (WSSC) from order of circuit court, requiring WSSC to determine and issue a refund to operator of concrete plant for allegedly erroneous charges for water and sewer service. Even though statute governing judicial review by a circuit court of final action on a refund claim by the WSSC was silent regarding appellate review of that circuit court's judgment by the Court of Special Appeals, WSSC was a state agency subject to the requirements of the APA, and WSSC refund claims were contested cases.

Appropriate remedy for failure of Washington Suburban Sanitary Commission (WSSC) to timely act on concrete plant operator's request for refund of allegedly erroneous charges for water and sewer service, resulting in request being deemed denied, was a remand to the WSSC for calculation of the amount of the refund due, not a remand for WSSC to determine whether to issue refund, since denial of the refund was not supported by substantial evidence. WSSC's governing statute required WSSC to investigate the merits of the claim within 180 days, and the only administrative record existing with regard to the refund claim were letters from operator requesting refund and subsequently requesting a hearing.