

# **Bond Case Briefs**

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## **UTILITIES - OHIO**

### **Northeast Ohio Regional Sewer Dist. v. Bath Twp.**

**Supreme Court of Ohio - September 15, 2015 - N.E.3d - 2015 WL 5448303 - 2015 -Ohio-3705**

Regional sewer district brought action against member communities, seeking declaratory judgment that district had authority to implement particular regional stormwater management (RSM) program. Property owners intervened. The Court of Common Pleas denied motion to dismiss, granted partial summary judgment to sewer district and, after bench trial, entered judgment in favor of district. Communities and property owners appealed. The Court of Appeals affirmed in part and reversed in part. Sewer district appealed.

The Supreme Court of Ohio held that:

- District was authorized to implement the RSM, and
- District had authority to charge fees to landowners to fund it.

Charter governing regional sewer district specifically authorized it to implement a regional stormwater management program, where charter stated, "The District will plan, finance, construct, operate and control waste water treatment and disposal facilities, major interceptor sewers, all sewer regulator systems and devices, weirs, retaining basins, storm water handling facilities, and all other water pollution control facilities of the District."

Regional sewer district had statutory authority to charge fees to landowners to pay for regional stormwater management (RSM) program that it was authorized to implement. Governing statute provided that a regional water and sewer district may charge for the use or services of any water resource project, and statutory definition of water resource project included a facility that was "to be acquired, constructed, or operated" by the sewer district.

Broad language of regional sewer district's charter, which provided that "any projects not financed through the Ohio Water Development Authority would be financed in such a manner as may be deemed appropriate by the Board of Trustees," encompassed the assessing of fees to pay for a stormwater management system, and thus fees charged to landowners to fund district's stormwater management program were authorized by the charter.