Bond Case Briefs

Municipal Finance Law Since 1971

TAX - NEW YORK

Level 3 Communications, LLC v. Erie County

Supreme Court, Appellate Division, Fourth Department, New York - October 2, 2015 - N.Y.S.3d - 2015 WL 5750574 - 2015 N.Y. Slip Op. 07104

Taxpayers brought hybrid article 78 proceeding and declaratory judgment action against city and school district, claiming that taxpayers' fiber optic cables did not conduct electricity and thus were not taxable real property. The Supreme Court, Erie County, dismissed the petition-complaint. Taxpayers commenced proceeding in the nature of mandamus.

The Supreme Court, Appellate Division, held that the Supreme Court could not dismiss taxpayers' hybrid article 78 proceeding and declaratory judgment action challenging a city's and school district's tax assessment on the basis of grounds not considered in administrative proceedings challenging the tax assessment, no matter how sound those grounds might be.

The appeals court remitted the matter to respondents for reconsideration of petitioners' applications, including determining whether the applications were timely and procedurally proper, whether the taxes that petitioners paid may be recovered despite the lack of protest by them, and whether the fiber optic cables at issue constitute taxable real property within the meaning of the RPTL.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com