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MUNICIPAL ORDINANCE - COLORADO

City of Fort Collins v. Colorado Oil

Supreme Court of Colorado - May 2, 2016 - P.3d - 2016 WL 1757630 - 2016 CO 28

State oil and gas association brought action against home-rule city requesting declaration and permanent injunction related to city's fracking moratorium.

The District Court granted association's motion for summary judgment. City appealed, and the Court of Appeals requested a transfer of the case to the Supreme Court.

The Supreme Court of Colorado held that:

- Moratorium involved a matter of mixed state and local concern;
- Oil and Gas Conservation Act did not impliedly preempt moratorium; but
- Moratorium operationally conflicted with Act.

Home-rule city's five-year moratorium on fracking and storage of fracking waste within city operationally conflicted with application of Oil and Gas Conservation Act, and therefore Act preempted city's moratorium. Even though it may have been possible to produce oil and gas without fracking, Commission promulgated exhaustive set of rules and regulations pursuant to Act to prevent waste and to conserve oil and gas, which comprehensively regulated fracking process, city's fracking moratorium rendered state's statutory and regulatory scheme superfluous by preventing operators who abided by Commission's rules and regulations from fracking, and city's moratorium materially impeded effectuation of state's interest in efficient and responsible development of oil and gas resources.