

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **UTILITY FEES - ILLINOIS**

### **Green v. Village of Winnetka**

**Appellate Court of Illinois, First District, First Division - May 31, 2016 - Not Reported in N.E.3d - 2016 IL App (1st) 152471-U - 2016 WL 3090302**

Property owner brought declaratory judgment action alleging that village's Stormwater Utility Fee was tax disguised as fee.

The Circuit Court granted village's motion to dismiss. Owner appealed.

The Appellate Court held that first amended complaint stated cause of action that Fee bore no relationship to stormwater service being provided.

Property owner's first amended complaint stated cause of action that village's Stormwater Utility Fee bore no relationship to stormwater service being provided in his declaratory judgment action alleging that Fee was tax disguised as fee. Complaint properly alleged that Fee was unconstitutional tax being levied on property owners of village, that Fee was incurred regardless of whether owner actually discharged storm runoff into system, that, despite acknowledgement by village that all property within village, both developed and undeveloped, discharged water into stormwater utility system, only owners of developed property were assessed Fee, that Fee was being used not to provide any service to property owners but to retire bonds issued to fund construction of tunnel, and that, as payments due on bonds increased, Fee climbed in equal percentage to ensure that it could cover debt payment.