

Bond Case Briefs

Municipal Finance Law Since 1971

FIRE SERVICE FEES - FLORIDA

Discount Sleep of Ocala, LLC v. City of Ocala

District Court of Appeal of Florida, Fifth District - June 17, 2016 - So.3d - 2016 WL 3364655 (Mem) - 41 Fla. L. Weekly D1437

The City of Ocala enacted several ordinances that established, repealed, and later reenacted certain fire service fees. The City began assessing the fees in 2006, but on October 6, 2009, the City enacted Ordinance 6015, which repealed the fees. Ordinance 6015 provided that it took effect “upon approval by the mayor, or upon becoming law without such approval on October 1, 2010.” The mayor signed and approved the ordinance on October 8, 2009. Subsequently, on May 4, 2010, the City repealed Ordinance 6015 and reinstated the fees by enacting Ordinance 2010-43.

Discount Sleep filed its complaint challenging the validity of the fees on February 20, 2014. The trial court found that Ordinance 6015 never took effect because it was repealed before its effective date of October 1, 2010. Consequently, the court held that the fire service fees had been continuously in effect since 2006, and Appellants failed to timely file their complaint within the four-year statute of limitations period.

The appeals court reversed, holding that the plain language of Ordinance 6015 dictated that it became effective both (1) when it was signed and approved by the mayor, or (2) without such approval on October 1, 2010. Thus, Ordinance 6015 became effective on October 8, 2009, and it repealed the fire service fees.

Moreover, without express revival, Ordinance 2010-43 could not reinstate prior ordinances governing the imposition of the fire service fees. Therefore, while Ordinance 2010-43 repealed Ordinance 6015, it also triggered a new four-year limitations period beginning on May 4, 2010.

Accordingly, Appellant’s complaint was timely and the trial court erred in granting the motion to dismiss on statute of limitations grounds.