

Bond Case Briefs

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MUNICIPAL UTILITIES - NORTH CAROLINA

Acts Retirement-Life Communities, Inc. v. Town of Columbus

Court of Appeals of North Carolina - August 2, 2016 - S.E.2d - 2016 WL 4087669

Owner of retirement facility brought action against town, seeking a declaration that town's decision to charge retirement facility the commercial rate for some water and sewer services but the residential rate for others violated town's charter and state constitution, alleging claim for relief based on unjust enrichment, and requesting permanent injunction requiring town to reclassify meters as commercial.

After bench trial, the Superior Court ruled that reclassification was arbitrary, capricious, and unreasonable, awarded owner compensatory damages, and denied request for injunctive relief. Town appealed, and owner cross-appealed.

The Court of Appeals held that:

- Owner's cause of action accrued, and three-year statute of limitations began to run, when reclassification took effect, and
- Continuing wrong doctrine did not apply.

Owner of retirement facility's cause of action against town challenging town's reclassification of water meters from commercial to residential, seeking declaratory and injunctive relief as well as damages for unjust enrichment, accrued, and three-year statute of limitations began to run, when reclassification took effect.

Each water bill issued by town to owner of retirement facility, after reclassifying some of retirement facility's water meters from commercial to residential, did not constitute a separate wrong that triggered its own limitations period, and thus continuing wrong doctrine did not apply to the three-year statute of limitations applicable to owner's action against town seeking declaratory and injunctive relief as well as damages for unjust enrichment resulting from alleged overcharges. Overcharges were the continual ill effects of the allegedly unlawful reclassification, which triggered the statute of limitations, and town did not reclassify the water meters each month.