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City of San Diego v. San Diegans for Open Government

Court of Appeal, Fourth District, Division 1, California - September 22, 2016 - Cal.Rptr.3d - 2016 WL 5231822

City filed validation action regarding the city's plan to levy a special tax. A suspended corporation filed a verified answer. After the corporation was revived, the Superior Court issued a ruling validating the special tax.

Corporation appealed, and the Court of Appeal reversed and remanded with directions to enter judgment in favor of the corporation. The Superior Court denied validation and partially granted corporation's attorney fee motion. City appealed.

The Court of Appeal held that on issue of first impression, private attorney general fees could not be awarded to a suspended corporation that was not revived before the expiration of the deadline to appear in the validation action.

Private attorney general fees could not be awarded to a corporation that was suspended when it filed an answer in a validation action, where both the corporation and its attorney knew the corporation was suspended, the corporation was not revived before the expiration of the deadline to appear in the validation action, and the corporation did not explain what additional benefit it provided in the matter in light of the fact that another objector had already appeared and was protecting the public interest.

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