

Bond Case Briefs

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Hill-Vu Mobile Home Park v. City of Pocatello

Supreme Court of Idaho, Boise - June 2017 Term - September 6, 2017 - P.3d - 2017 WL 3880760

Users of municipality's water and sewer systems brought action against municipality for a refund of a water and sewer charge that had been found unlawful in a previous case, and users sought class certification. The District Court granted summary judgment for city. Users appealed.

The Supreme Court of Idaho held that:

- Idaho Tort Claims Act did not preclude users' state law claims;
- Money is property within the meaning of the takings clause; and
- Trial court did not have discretion to refuse to apply its decision in the previous case that the particular charge was unlawful.

Idaho Tort Claims Act did not bar municipal water and sewer system users' claims under state law for recovery of a charge that was linked to the purported property taxes that municipal water and sewer departments paid to the municipality and that had been held to be unlawful in a separate case, even though Act generally provided that a governmental entity was not liable for a claim that arose out of the assessment or collection of a tax, where municipality did not have authority to add such a charge, municipality did not denominate the charge as a tax, and municipality raised the rates for water and sewer service so that it would not have to take the politically unpopular route of raising property taxes.

Trial court did not have discretion to refuse to apply its decision in a previous case that a particular water and sewer charge by a municipality was unlawful to a new case by water and sewer users who sought a refund of the charge.