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Prometheus Realty Corp. v. New York City Water Board

Court of Appeals of New York - December 19, 2017 - N.E.3d - 2017 WL 6454306 - 2017 N.Y. Slip Op. 08801

Property owners brought article 78 petition challenging city water board's annual rate increase and its one-time bill credit to certain tax class following mayor's elimination of board's rental payments to city, asserting that board's determinations with respect to rate increase and bill credit were irrational, arbitrary and capricious, and exceeded its authority.

The Supreme Court, New York County, vacated board's resolutions. Defendants appealed. The Supreme Court, Appellate Division, affirmed. Defendants appealed.

The Court of Appeals held that:

- Board's decision to provide credit to some, but not all, customers based on their tax class was not arbitrary or irrational;
- Board's decision to increase rates system-wide while also providing credit to some, but not all, customers was not arbitrary or irrational; and
- Board's system-wide rate increase while also providing credit to some, but not all, customers did not amount to impermissible tax.

City water board's decision to provide \$183 credit to some, but not all, water customers based on their tax class following mayor's elimination of board's rental payments to city was not arbitrary or irrational, where customers who received credit, including single-family households and owners of small apartment buildings, had been excluded for years from previous rate relief programs, and limiting credit to certain tax class served purpose of allocating relatively modest gain from rent forbearance in manner that was meaningful to very large category of customers.

City water board's decision to increase rates system-wide while also providing \$183 credit to some, but not all, water customers based on their tax class following mayor's elimination of board's rental payments to city was not arbitrary or irrational, since board set water rates to maintain revenue stability over at least five-year forecast, and eliminating one-time credit would not remove need for rate increase, and board was not obligated to set lowest possible rate every year, rather it could balance rate-setting with other needs and goals.

City water board's system-wide rate increase while also providing \$183 credit to some, but not all, water customers based on their tax class following mayor's elimination of board's rental payments to city did not amount to impermissible "tax," since rate increase was tied to board's forecast of cost of furnishing service, such that any rate disparity between classes of customers amounted to decrease in some customers' charges at expense of other customers.