

Bond Case Briefs

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STORMWATER CONNECTION FEE DISTRICTS - IOWA

Interchange Partners, L.L.C. v. City of West Des Moines

Court of Appeals of Iowa - April 18, 2018 - Slip Copy - 2018 WL 1865283

The City of West Des Moines approved and passed Ordinances “to establish the method and requirements for the establishment of individual stormwater connection fee districts to fund the design and construction of certain stormwater drainage facilities on major streets.”

The District Court invalidated the Ordinances, concluding (1) the property does not have the required connection to a city utility, (2) the placement of culverts under the City’s streets does not constitute a city sewer, and (3) the connection fee is not equitably apportioned among all persons in the district benefiting from the culverts. City appealed.

The Court of Appeals held that:

- The district court did not err in determining the City’s planned improvements do not qualify as a city sewer utility. While the City is authorized to assess private property for the cost of public improvements, the City may not charge connection fees for the improvements at issue here.
- The planned improvements do not constitute a “sewer.” Accordingly, the City cannot provide the required “connection” to a sewer because the planned improvements do not involve a sewer.
- There was no equitable apportionment based on benefits received by the landowners because the ordinance charged a fee only to land that could still be developed. This reduced the amount of area subject to the assessment as the remaining developable land bears the entire weight of the fee. Because the City reduced the amount of the area subject to the assessment and because the culverts benefited the district generally, Interchange was charged a disproportionately high fee. Therefore, the district court did not err in its determination that the fee is inequitable.