

# **Bond Case Briefs**

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## **TAX - INDIANA**

### **Daw v. Hancock County Assessor**

**Tax Court of Indiana - March 8, 2019 - N.E.3d - 2019 WL 1198821**

Property owners filed petition for review of Indiana Board of Tax Review's determination that declined to address their annexation and storm-water claims and that they failed to show that assessment of their property should be changed.

The Indiana Tax Court affirmed in part, and remanded. Town intervened and filed petition for rehearing before Tax Court.

The Indiana Tax Court held that:

- Tax Court would decline to grant town rehearing on issue of whether its storm water charges constituted a tax;
- Property owners were not entitled to challenge town's annexation decision by seeking declaratory judgment;
- Town was permitted to assert claim that property owners' storm water claim was untimely under Storm Water Act; and
- Property owners were not entitled to assert storm water claim by seeking declaratory judgment.

Tax Court would decline to grant town rehearing on issue of whether its storm water charges constituted a tax, in action by property owners, seeking review of Indiana Board of Tax Review's determination, declining to address property owners' annexation and storm-water claims, and that they failed to show that assessment of their property should be change, in which action town intervened, where town's arguments were based on repealed ordinance.

Property owners were not entitled to challenge town's annexation decision by seeking declaratory judgment, in their action challenging determination of Indiana Board of Tax Review, declining to address their annexation claim, where property owners owned annexation area, and property owners failed to allege their land was not contiguous to town's boundaries or that town failed to implement a fiscal plan.

Town was permitted to assert claim that property owners' storm water claim was untimely under Storm Water Act, in property owners' action seeking review of Indiana Board of Tax Review's determination, declining to address storm-water claim, in which action town intervened, where town's claim had not already been determined by court.

Property owners were not entitled to assert storm water claim related to town's storm water project by seeking declaratory judgment, in their action challenging determination of Indiana Board of Tax Review, declining to address storm-water claim; property owners were able, under Storm Water Act, to assert claim by written remonstrance, and then to appeal town's decision concerning storm water project, if necessary, but they failed to do so.

