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BUILDING INSPECTION FEES - MICHIGAN

Michigan Association of Home Builders v. City of Troy

Supreme Court of Michigan - July 11, 2019 - N.W.2d - 2019 WL 3059716

Trade associations brought action against city to challenge city's building inspection fees.

The Circuit Court granted summary disposition to city. Associations appealed. The Court of Appeals affirmed. Associations sought leave to appeal. The Supreme Court reversed and remanded. On remand, the Circuit Court again granted summary disposition to city. Associations appealed. The Court of Appeals affirmed. Associations sought leave to appeal.

The Supreme Court held that:

- State statute prohibited city from establishing building inspection fees that resulted in surpluses to pay the historical deficits of city's building department;
- Trade associations could not maintain a private cause of action for monetary damages to redress city's improper building inspection fees; but
- Trade associations, if they could establish standing, could maintain a cause of action for declaratory and equitable relief.

City could not establish building inspection fees that resulted in surpluses to pay the historical deficits of its building department, given that the state construction code restricted fees collected by a governmental subdivision to bear a reasonable relation to the cost of acts such as inspection of construction and mandated that fees be used for the operation of the enforcing agency or the construction board of appeals.

Trade associations could not maintain a private cause of action for monetary damages to redress city's improper building inspection fees, which were fees set at a level that violated state construction code's provision restricting fees collected by a governmental subdivision pursuant to the code to bear a reasonable relation to the cost to the governmental subdivision of acts such as inspection of construction and mandating that fees be used for the operation of the enforcing agency or the construction board of appeals; city enjoyed immunity from tort liability under the Governmental Tort Liability Act (GTLA).

Trade associations' claim that city assessed building inspection fees that violated state construction code's provision restricting fees collected by a governmental subdivision pursuant to the code to bear a reasonable relation to the cost to the governmental subdivision of acts such as inspection of construction and mandating that fees be used for the operation of the enforcing agency or the construction board of appeals constituted an actual controversy such that trade associations could maintain a cause of action for declaratory and equitable relief, if trade associations established standing.

State constitutional provision stating that any taxpayer had standing to bring suit concerning constitutional provisions on increases in local taxes, which were all provisions that were part of the Headlee Amendment, was an explicit grant of standing to taxpayers to bring suits under the Headlee

Amendment.

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