

Bond Case Briefs

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Tesoro Logistic Operations, LLC v. City of Rialto

Court of Appeal, Fourth District, Division 2, California - October 2, 2019 - Cal.Rptr.3d - 2019 WL 4853124 - 2019 Daily Journal D.A.R. 9493

Liquid fuel wholesalers, after administrative appeals and refund claims regarding tax paid were denied, brought actions against city, seeking judgment that tax on wholesale liquid fuel storage facilities, calculated based on storage capacity by volume, was unconstitutional real property tax and unlawfully amended voter-adopted ordinance.

Wholesalers moved for judgments on the pleadings, summary judgment, and summary adjudication, and city cross-moved for judgments on the pleadings. The Superior Court denied wholesalers' motions and entered judgment on pleadings in favor of city on ground that tax was valid business license tax. Wholesalers appealed. Appeals were consolidated.

The Court of Appeal held that:

- City guidelines unlawfully amended voter-adopted ordinance;
- Voter-adopted ordinance imposed tax on real property; and
- Voter-adopted ordinance was unconstitutional.

City guidelines purporting to implement voter-adopted ordinance imposing tax on operators and owners of wholesale liquid fuel storage facilities unlawfully amended voter-adopted ordinance, where guidelines changed scope and effect of ordinance by limiting application of tax to only those persons operating storage facilities where liquid fuel was actually stored during a calendar year, rather than any persons engaged in the business of owning, operating, leasing, supplying, or providing storage facilities regardless of whether fuel was actually stored, as required under ordinance, changed effect of ordinance from taxing storage capacity, as intended by voters, to taxing business operations, and ordinance did not provide that city could amend or repeal ordinance.

Tax on storage capacity of liquid fuel storage tanks was tax on real property, not excise tax; storage tanks were fixtures or improvements to real property, such that they themselves constituted real property, tax was based on volume of tanks regardless of whether tanks were used in business or how much fuel was stored in them, and mere act of owning fuel storage facility, rather than any incident of ownership such as use of tanks to store fuel or privilege of storing fuel in tanks, triggered liability for tax.

Language in voter-adopted ordinance describing tax imposed on owners and operators of liquid fuel storage facilities based on storage capacity as "business license tax" was incompatible with meaning and effect of ordinance as a whole, and, thus, did not reflect voters' intent that tax be a business license tax instead of a property tax, where ordinance as a whole taxed volume of storage tanks, which were fixtures or improvements to real property, regardless of whether tanks were used in any business, and mere ownership of tanks triggered tax liability.

Voter-adopted ordinance imposing tax on owners and operators of liquid fuel storage tanks violated

constitutional provision restricting real property taxes, where tax was assessed based on storage capacity of tanks, which were fixtures or improvements to real property, regardless of their use, mere ownership triggered tax liability, and tax did not come within constitutional exceptions to general prohibition on property taxes.