

Bond Case Briefs

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Village of Campton Hills v. Comcast of Illinois V, Inc.

Appellate Court of Illinois, Second District - November 18, 2019 - N.E.3d - 2019 IL App (2d) 190055 - 2019 WL 6112055

Municipality filed suit against cable company to recover cable franchise fees.

Cable company filed declaratory judgment against municipality and county to determine which government unit was entitled to fees. County filed counterclaim against cable company for recovery of unpaid fees and for indemnification. On cross-motions for summary judgment, the Circuit Court determined municipality was entitled to fees, ordered county to reimburse cable company for fees it had paid to county, and denied county's claim for indemnification. County appealed, and municipality cross-appealed.

The Appellate Court held that:

- Trial court's determination was not improper modification of franchise agreement between cable company and county;
- Franchise fees were not included in definition of damages in indemnification provision of county ordinance; and
- Municipality was not entitled to appeal trial court's determination.

Trial court's determination granting county municipality franchise fees from cable company was not improper modification of franchise agreement between cable company and county, where county ordinance provided payments would continue to extent allowed by law, and counties code limited county's ability to license, tax, or franchise cable company to systems within county but outside of municipalities.

Franchise fees were not included in definition of damages in indemnification provision of county ordinance which precluded county's liability for damages sustained in relation to franchise agreement with cable company, and thus, county was required to reimburse franchise fees cable company had paid to county upon trial court's determination that municipality, and not county, was entitled to fees, even though ordinance did not provide definition of damages.

Municipality was not entitled to appeal trial court's determination that incorporation of municipality and annexation had same meaning under counties code, in action brought by municipality, seeking to recover franchise fees cable company had paid to county instead of municipality, where trial court had ruled in favor of municipality, and municipality had been granted all relief it had requested.