

Bond Case Briefs

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Clear Channel Outdoor, Inc. v. Director, Department of Finance of Baltimore City

Court of Special Appeals of Maryland - January 29, 2020 - A.3d - 2020 WL 465762

Billboard owner appealed city's denial of its request for refund of excise taxes paid pursuant to city ordinance which imposed excise tax on privilege of exhibiting outdoor advertising displays, including the privilege of charging third parties a fee for their use of its billboard space.

The Tax Court affirmed, and billboard owner sought judicial review. The Circuit Court affirmed. Billboard owner appealed.

The Court of Special Appeals held that:

- Ordinance did not impermissibly burden billboard owner's right to freedom of speech, and
- Ordinance was constitutionally valid under rational basis review.

City outdoor advertising ordinance imposing excise tax on billboard owner's privilege to charge others a fee to use billboard space did not impermissibly burden owner's right to freedom of speech under the First Amendment and Maryland Constitution; billboard owner's economic activity was not expressive or communicative, and ordinance was content neutral, applicable whenever an outdoor advertiser such as billboard owner charged third parties to use its space, regardless of the content displayed on the billboards or who paid billboard owner to display it.

City outdoor advertising ordinance, imposing excise tax on billboard owner's privilege to charge others a fee to use billboard space, was constitutionally valid under rational basis review, where city had legitimate governmental interest in raising revenue, particularly for purpose of alleviating burden on city taxpayers, and ordinance was rationally related to that interest because tax imposed by the ordinance actually raised revenue, which was placed directly into city's general fund.