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Malott v. Summerland Sanitary District

Court of Appeal, Second District, Division 6, California - October 19, 2020 - Cal.Rptr.3d - 2020 WL 6128117 - 20 Cal. Daily Op. Serv. 10,825 - 2020 Daily Journal D.A.R. 11,217

Owner of 30-unit apartment building filed an administrative mandamus petition against sanitary district alleging it imposed an excessive wastewater disposal charge for the property without regard to the proportional cost of providing wastewater service for her property, in violation of the California Constitution.

The Superior Court dismissed the petition on the ground that owner did not exhaust her administrative remedies. Owner appealed.

The Court of Appeal held that:

- Owner was not required to exhaust administrative remedies by appearing at sanitary district's public hearing, and
- Declaration of owner's expert on utility and wastewater service rates should have been admitted.

Owner of 30-unit apartment building was not required to exhaust administrative remedies by appearing at sanitary district's public hearing before bringing action against the district for allegedly violating California Constitution by imposing excessive wastewater disposal charge for the property without regard to proportional cost of providing wastewater service, despite the fact owner elected to file an administrative mandamus petition instead of a declaratory relief action; owner's petition asked for ruling that the district's method of calculating residential rates was invalid, an appropriate type of relief in a declaratory relief action, and owner claimed she had no adequate forum at the public hearing to resolve evidentiary issues involved in a challenge to the rate structure.

Declaration of expert on utility and wastewater service rates should have been admitted by the court in proceedings on the challenge brought by owner of 30-unit apartment building to sanitary district's allegedly excessive wastewater disposal charge for the property, which district allegedly imposed without regard to proportional cost of providing wastewater service, in violation of California Constitution; expert said the district used a flawed system of determining and allocating costs for residential users, the result of which was that it was overcharging apartment buildings and undercharging single-family residences, and a trier of fact accepting expert's claims could reasonably find rate payers in apartment units were being substantially overcharged by the district.