
TAX - LOUISIANA

Balbesi v. Lafayette-City Parish Consolidated Government

Court of Appeal of Louisiana, Third Circuit - December 30, 2020 - So.3d - 2020 WL 7768414 - 2020-61 (La.App. 3 Cir. 12/30/20)

Utilities customers brought a class action petition for declaratory judgment and damages against city-parish consolidated government and Lafayette Utilities System (LUS), challenging the constitutionality of annual transfers of utility's revenues to the government known as in-lieu-of-tax (ILOT) payments.

The District Court granted summary judgment in favor of defendants dismissing customer's claims. Customers appealed.

The Court of Appeal held that:

- LUS was a revenue-producing public utility that was exempt from ad valorem taxes, and
- ILOT payments were not de facto ad valorem taxes.

The Lafayette Utilities System (LUS) was a revenue-producing public utility that was exempt from ad valorem taxes as contemplated by the state constitution, because it operated to provide a public service.

In-lieu-of-tax (ILOT) payments made by Lafayette Utilities System (LUS) to city-parish consolidated government were not de facto ad valorem taxes, even though the ILOT transfers were referred to in bond ordinances as payments-in-lieu-of tax, and/or because they were placed into the City General Fund along with other tax revenue; payments were a made from revenue generated by the utility, and payments were in no way related to the value of any property.

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