

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **TAX - FLORIDA**

### **PBT Real Estate, LLC v. Town of Palm Beach**

**United States Court of Appeals, Eleventh Circuit - February 22, 2021 - F.3d - 2021 WL 671583**

Condominium owner brought § 1983 action in state court against town, alleging that special property tax assessments imposed on real property owners to fund town's relocation of electrical, telephone, and cable television utilities underground violated the Due Process Clause, and the Equal Protection Clause, and asserting claims under Florida law.

Action was removed to federal court. The United States District Court dismissed the state-law claims, and granted summary judgment in favor of town on the remaining claims. Owner appealed.

The Court of Appeals held that:

- Town's assessment resolution, authorizing special assessment to fund town's relocation of electrical, telephone, and cable television utilities underground, did not violate due process;
- Imposition of assessment did not violate condominium owner's equal protection rights;
- Condominium owner stated plausible claim for unconstitutional tax in violation of Florida constitution and Florida tax laws;
- Florida constitution's Takings Clause did not apply to town's special assessment; and
- Testimony did not support motion for reconsideration.

Town's property tax assessment resolution, authorizing special assessment to fund town's relocation of electrical, telephone, and cable television utilities underground was not arbitrary and capricious and was rationally related to town's legitimate purpose of improving safety, reliability, and aesthetics of all property in special assessment area, and thus, did not violate substantive due process rights of condominium owner, notwithstanding that utilities servicing area where condominium was located had been undergrounded years earlier, which was financed privately.

Town's imposition of special property tax assessment to fund town's relocation of electrical, telephone, and cable television utilities underground, which exempted real property owners who had previously been subject to special assessments for undergrounding utilities, did not violate condominium owner's equal protection rights; although utilities servicing area where condominium was located had already been undergrounded through private financing, exempted owners were not similarly situated to condominium owner because their utility lines were undergrounded pursuant to project funded by special assessments, not private funding.

Condominium owner stated plausible claim for unconstitutional tax in violation of Florida constitution and Florida tax laws based on allegations that town imposed special property tax assessment on condominium owner and other real property owners to fund town's relocation of electrical, telephone, and cable television utilities underground, but that the assessment conferred no special benefit to condominium owner because utilities servicing area where condominium was located had already been undergrounded, where complaint also incorporated general allegations, which included citations to the Florida constitution and tax laws.

