

Bond Case Briefs

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Brotze v. City of Carlinville

Appellate Court of Illinois, Fourth District - March 2, 2021 - N.E.3d - 2021 IL App (4th) 200369 - 2021 WL 791651

City residents brought action against city, village, nonprofit corporation, and new water company formed by the three entities, seeking declaratory judgment that city and village could not participate in the formation or continued funding and operation of new water company, which was formed for purpose of creating a potable water supply.

The Circuit Court dismissed residents' claims for lack of standing, and allowed residents to file an amended complaint against city. After residents filed an amended complaint seeking mandamus, the Circuit Court entered summary judgment against city, and declared new water company was an illegal company. City and new water company appealed, and appeals were consolidated.

The Appellate Court held that city acted within its authority when it joined with village and nonprofit corporation to create new water company to build and maintain a water supply for its members.

City acted within its authority, under state constitutional provision governing intergovernmental cooperation, to join together with village and nonprofit corporation to create new water company for purpose of building and maintaining a water supply for its members; constitutional provision authorized units of local government to contract or associate among themselves and with corporations in any manner not prohibited by law or by ordinance, there was no statute or ordinance that prohibited city, village, and nonprofit corporation from joining together to form water company, and each municipality and nonprofit had the authority to do individually what they wished to do collectively.

City was not required to contract "and" associate with nonprofit corporation when it joined with other municipality and nonprofit corporation to create new water company to build and maintain a water supply for its members, and thus new water company was valid nonprofit corporation even though city did not enter into any contracts; state constitutional provision governing intergovernmental cooperation stated units of local government could contract "and" otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or ordinance, and this provision authorized units of local government to contract, associate, or contract and associate with private entities.