

# **Bond Case Briefs**

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## **TAX - CALIFORNIA**

### **Lejins v. City of Long Beach**

**Court of Appeal, Second District, Division 1, California - December 1, 2021 - Cal.Rptr.3d - 2021 WL 5628744**

Property owners petitioned for writ of mandate challenging surcharge municipality imposed on its water and sewer customers by embedding surcharge in rates water department charged its customers for service.

The Superior Court granted judgment for owners and awarded them attorney fees. Municipality appealed.

The Court of Appeal held that:

- Voter-approved surcharge had been imposed upon parcel or upon person as incident of property ownership within meaning of constitutional provision governing special taxes;
- Voters' approval of surcharge did not prevent it from violating constitutional provision governing special taxes; and
- Transfer or surcharge that was not in any way related to costs of providing water and sewer services was prohibited by Constitutional provision governing special taxes.

Ability of person to own real property without obtaining water or sewer service did not prevent voter-approved surcharge for water and sewer services that supported variety of municipal services, such as 9-1-1 emergency response, police-fire protection, street-pothole repairs, senior services, parks, and libraries from being imposed upon parcel or upon person as incident of property ownership within meaning of constitutional provision governing special taxes.

Surcharge for water and sewer services that supported variety of municipal services, such as 9-1-1 emergency response, police-fire protection, street-pothole repairs, senior services, parks, and libraries violated constitutional provision governing special taxes although it had been approved by voters.

Transfer or surcharge that was not in any way related to costs of providing water and sewer services was prohibited by Constitutional provision governing special taxes; although surcharge raised unrestricted revenue to support variety of municipal services, such as 9-1-1 emergency response, police-fire protection, street-pothole repairs, senior services, parks, and libraries, it did not reimburse municipality for costs associated with water department's use of its infrastructure.