

Bond Case Briefs

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Gibson v. Little Rock Downtown Neighborhood Association, Inc.

Supreme Court of Arkansas - March 16, 2023 - S.W.3d - 2023 Ark. 452023 WL 2531192

Neighborhood associations and others brought action against Arkansas Department of Transportation (ArDOT), its director, members of Arkansas State Highway Commission, and state officials for declaratory and injunctive relief and for an accounting, contending that defendants' spending of funds raised by temporary sales-and-use tax on highway projects other than "four-lane highway improvements" constituted illegal exaction unauthorized by constitutional amendments establishing and continuing tax.

Plaintiffs moved and defendants cross-moved for summary judgment. The Circuit Court granted motion and denied cross-motion. ArDOT, its director, and Commission members appealed.

The Supreme Court held that:

- Declaratory judgment claim presented justiciable controversy, but
- Tax-extension amendment did not limit use of revenue to four-lane highway improvement projects.

Neighborhood associations' claim against Arkansas Department of Transportation (ArDOT), its director, and members of Arkansas State Highway Commission for declaratory judgment, which rested on contention that expenditure of funds derived from constitutional amendment extending tax originally imposed for four-lane highway improvements would constitute illegal exaction, presented justiciable controversy, even though amendment had not yet taken effect; ArDOT had already committed \$350 million of revenue from amendment to certain road and highway projects that did not involve four-lane highways, defendants did not express intent to change such plans, and collection of revenue pursuant to amendment was imminent.

Plain language of constitutional amendment extending temporary sales-and-use tax levied under previous amendment, which had been designated to fund highway improvement bonds for "four-lane highway improvements," so as to "provide special revenue for use of maintaining, repairing, and improving the state's system of highways, county roads, and city streets" after retirement of highway improvement bonds did not restrict use of taxes under tax-extension amendment to four-lane highway improvement projects; unlike prior amendment's repeated references to "four-lane highway," tax-extension amendment did not contain language indicating funds collected could only be used on four-lane highway improvements, but, rather, clearly stated funds were for "highways, county roads, and city streets."