

Bond Case Briefs

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Palmer v. City of Anaheim

Court of Appeal, Fourth District, Division 3, California - April 17, 2023 - Cal.Rptr.3d - 2023 WL 2962115

City resident brought class action alleging that city violated state constitutional provision requiring voter approval for new or increased local taxes arising from city's approval of rate modification for city-owned electric utility on which city imposed a right-of-way fee and from which a portion of revenues were transferred to city's general fund.

The Superior Court granted summary judgment for city. Resident appealed.

The Court of Appeal held that:

- Parties' stipulation limiting issues for summary judgment applied on review of grant of summary judgment;
- Right-of-way fee was not a tax requiring voter approval; and
- Voters' approval of city charter amendment allowing general fund transfers satisfied voter-approval requirements.

Parties' stipulation limiting issues for summary judgment applied on appeal of grant of summary judgment for defendant city, where trial court did not misconstrue or misunderstand language of stipulation and plaintiff never sought to invalidate or withdraw from stipulation, in class action challenging city's approval of rate modification for city-owned electric utility as contrary to state constitutional voter-approval requirements for new or increased local taxes.

Right-of-way fee that city imposed on city-owned electric utility was not a "tax" under state constitutional provision requiring voter approval for new or increased local taxes, where utility had sufficient non-rate revenue to fully offset any impact that the right-of-way fee had on rates.

Cost-of-service provision in voter-approved city charter amendment allowing transfer of four percent of revenues of city-owned electric utility to city's general fund allowed city to charge ratepayers to fund the four percent transfer, and any such voter-approved charge could not be an overcharge in violation of state constitutional provision requiring voter approval for new or increased local taxes.