

Bond Case Briefs

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Village of Arlington Heights v. City of Rolling Meadows

Appellate Court of Illinois, First District, Sixth Division - January 12, 2024 - N.E.3d - 2024 IL App (1st) 221729 - 2024 WL 133018

Village filed action against neighboring city, seeking recovery of eight years of sales tax revenue for a business located in village that had been erroneously paid to city by the Illinois Department of Revenue (IDOR).

The Circuit Court granted city's motion to dismiss. Village appealed.

The Appellate Court held that:

- Circuit court had jurisdiction over sales tax dispute between village and city;
- Village was not limited to recovery of a six-month offset; and
- The doctrine of nonliability did not apply to bar village's declaratory action to recover sales tax revenue retained by city.

Circuit court had jurisdiction over village's action against city for recovery of sales tax revenue erroneously paid to city by the Illinois Department of Revenue (IDOR); IDOR did not have exclusive jurisdiction over sales tax issues, and the court could readily calculate the amount owed without IDOR's expertise if village could prove that city improperly retained sales tax generated by restaurant located in the village.

Village that sought eight years of sales tax revenue generated by restaurant in the village that had been erroneously paid to neighboring city by Illinois Department of Revenue (IDOR) was not limited under the Municipal Code to recovery of a six-month offset; city had a statutory obligation to timely report the sales tax error to IDOR, allowing city to keep sales tax generated in village would provide it with a windfall, and six-month limit on the recovery IDOR could provide did not preclude village from bringing a claim in circuit court to recover the remainder.

The fact that the amount allegedly owed under a contract is already fixed does not preclude a declaratory judgment action, because a party is not amenable to suit until a breach occurs; therefore, declaratory judgment could guide future conduct in such a situation because a court could determine whether or not a valid contract exists and, thereby, inform the party that potentially owes the money whether or not it would be in breach of a contract should it refuse to pay.

The doctrine of nonliability did not apply to bar village's declaratory action to recover sales tax revenue erroneously paid to neighboring city by the Illinois Department of Revenue (IDOR), although IDOR had corrected the error for prospective payments; the conduct for which the village sought relief was city's continuing conduct of retaining nearly eight years of sales tax allegedly belonging to village.

