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UTILITY FEES - GEORGIA

Homewood Associates, Inc. v. Unified Government of Athens-Clarke County

Supreme Court of Georgia - October 15, 2025 - S.E.2d - 2025 WL 2919059

County government brought action against property owner in the Magistrate Court, Athens-Clarke County, to recover delinquent stormwater utility charges and property owner counterclaimed for declaratory judgment and injunctive relief.

After transfer to Superior Court, property owner and other owners of developed property in the county filed separate complaint for damages and declaratory and injunctive relief against county government alleging that the stormwater utility charge violated their rights under the taxation uniformity provision of the state constitution and the Takings Clause of the Fifth Amendment.

On the parties' joint motion, the actions were consolidated. The Superior Court granted county government's motion for summary judgment and denied property owners' motion for partial summary judgment. Property owners appealed.

The Supreme Court held that:

- Supreme Court would decline to overrule its prior holding that county's stormwater utility charge was a fee rather than a tax, and
- Stormwater utility charge did not violate property owners' rights under the Fifth Amendment's Takings Clause.

Supreme Court would decline to overrule its prior holding that county's stormwater utility charge was a fee rather than a tax subject to state constitution's taxation uniformity provision, even if some members of Court had doubt as to the correctness of its analysis; prior holding, which involved the same stormwater utility charge and some of the same parties, implicated strong reliance interests, and holding was not so clearly wrong that considerations of correctness outweighed other stare decisis considerations.

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