CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION SIX

Nguyen v. City of L.A.

2d Civ. No. B340105 · No. B340105 · Decided June 22, 2026

SUMMARY

The California Court of Appeal affirmed summary judgment for the City of Los Angeles in a challenge to a franchise fee and customer surcharge paid in connection with SoCalGas's use of City streets and operation of its natural gas system. The court held that the charges qualified for the California Constitution's article XIII C, section 1, subdivision (e)(4) exemption for charges imposed for the use of local government property, and that apportionment was not required. The court further held that the exemption does not include a substantive reasonableness requirement, but concluded that the fee was supported by bona fide negotiations in any event.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Six
WRITING FOR THE COURT	Yegan, Acting Presiding Justice; Yegan, Acting P. J.; Baltodano, J.; Cody, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Six
DECIDED	June 22, 2026
DOCKET	B340105
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a judgment granting the City’s motion for summary judgment in a constitutional challenge to a municipal utility franchise fee and customer surcharge.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, with the evidence viewed in the light most favorable to the losing party. Constitutional and statutory interpretation, and whether a charge is a tax or fee, are also reviewed independently.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under California law.
PARTIES	Annie Nguyen v. City of Los Angeles

TOPICS

constitutional law · municipal law · public utilities · ordinances · standard of review

PRACTICE AREAS

constitutional law · municipal law · public utilities · appellate procedure

QUESTIONS PRESENTED

1. Whether the SoCalGas franchise fee and customer surcharge constituted a tax requiring voter approval under article XIII C of the California Constitution.
2. Whether article XIII C, section 1, subdivision (e)(4) required apportionment of the franchise fee between charges for use of City property and charges associated with the right to operate a gas business in the City.
3. Whether article XIII C required the City to prove that the franchise fee was reasonably related to the value of the franchise.
4. Whether disputed material facts concerning the value of the franchise, bona fide negotiations, the surcharge, or Street Damage Restoration Fee payments precluded summary judgment.

HOLDINGS

1. The franchise fee, including the portion passed through to customers as a surcharge, was a charge for use of local government property within the article XIII C, section 1, subdivision (e)(4) exemption and therefore was not a tax requiring voter approval.
2. The franchise fee did not have to be apportioned between amounts attributable to access to City property and amounts attributable to the right to operate the gas system or conduct business in the City.
3. Article XIII C, section 1, subdivision (e)(4) does not impose a substantive requirement that a franchise fee bear a reasonable relationship to the value of the franchise.
4. Even assuming a reasonable-value requirement applied, the City met its burden because undisputed evidence showed that the fee resulted from bona fide, arms-length negotiations and was supported by the franchise's value.

KEY QUOTATIONS

> *"SoCalGas paid the franchise fee in exchange for use of and access to specific City property beyond what would otherwise be available to the public."* (at 10)

> *"We agree with Howard Jarvis that Exemption 4 does not include a substantive reasonableness requirement."* (at 16)

> *"The trial court properly granted the City's motion for summary judgment because the franchise fee at issue here is not a tax under article XIII C, section 1, subdivision (e)(4) of the California Constitution."* (at 19)

FACTUAL BACKGROUND

In 2022, the City and Southern California Gas entered into a franchise agreement authorizing SoCalGas to install, maintain, and operate its natural-gas system in City streets and to conduct gas transmission and distribution within Los Angeles. The agreement required SoCalGas to pay a franchise fee equal to 5.5 percent of specified gross receipts, with 3.5 percent eligible to be passed through to customers as a surcharge after California Public Utilities Commission approval. The agreement followed extensive negotiations, multiple proposals, consultant analysis, and public and regulatory review. Nguyen alleged that the surcharge was an unapproved tax and that the fee should be apportioned between compensation for use of City property and compensation for the privilege of operating a business in the City.

PROCEDURAL HISTORY

Annie Nguyen brought a putative class action alleging that a surcharge associated with SoCalGas's franchise fee to the City of Los Angeles was an unlawful tax under article XIII C of the California Constitution because it had not received voter approval. The Los Angeles County Superior Court granted the City summary judgment, concluding that the fee qualified for the article XIII C, section 1, subdivision (e)(4) exemption and that no triable issues of material fact existed. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Saelzler v. Advanced Group 400 (2001) 25 Cal.4th 763
- Niedermeier v. FCA US LLC (2024) 15 Cal.5th 792
- Jacks v. City of Santa Barbara (2017) 3 Cal.5th 248
- Zolly v. City of Oakland (2022) 13 Cal.5th 780
- City and County of San Francisco v. Farrell (1982) 32 Cal.3d 47
- Zolly v. City of Oakland (2020) 47 Cal.App.5th 73
- Mahon v. City of San Diego (2020) 57 Cal.App.5th 681
- Howard Jarvis Taxpayers Assn. v. Bay Area Toll Authority (2020) 51 Cal.App.5th 435