

SUPREME COURT OF COLORADO

Wolf Ranch, LLC v. City of Colorado Springs

220 P.3d 559 (Colo. 2009) · No. No. 08SC1073 · Decided December 14, 2009

SUMMARY

The Colorado Supreme Court held that a drainage fee imposed by the City of Colorado Springs on development in the Cottonwood Creek Basin fell within the Regulatory Impairment of Property Rights Act's exception for legislatively formulated fees imposed on a broad class of property owners. The court affirmed the court of appeals' judgment on different grounds and remanded for further proceedings. Two justices dissented, concluding that the fee exemption process was individualized and discretionary under the applicable annexation agreement.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Rice; Justice Eid; Justice Martinez
JURISDICTION	Colorado
DECIDED	December 14, 2009
DOCKET	No. 08SC1073
DISPOSITION	affirmed
PROCEDURAL POSTURE	Review of the Colorado Court of Appeals' judgment concerning whether a drainage fee imposed as a condition of land-use approval was subject to the Regulatory Impairment of Property Rights Act.
STANDARD OF REVIEW	De novo review applies to statutory interpretation because it presents a question of law.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado
PARTIES	Wolf Ranch, LLC v. City of Colorado Springs

TOPICS

- municipal law
- municipal finance
- statutory interpretation
- takings clause
- real estate

PRACTICE AREAS

- municipal law
- land-use regulation
- regulatory takings
- statutory interpretation
- real estate development

QUESTIONS PRESENTED

1. Whether the drainage fee imposed on Wolf Ranch was a legislatively formulated fee imposed on a broad class of property owners and therefore fell within RIPRA's statutory exception.
2. Whether the Colorado Court of Appeals' judgment should be affirmed on grounds different from those relied on by that court.

HOLDINGS

1. The drainage fee assessed to Wolf Ranch falls within RIPRA's exception for a legislatively formulated assessment, fee, or charge imposed on a broad class of property owners. Consequently, the fee is outside RIPRA's ambit and is not subject to RIPRA's Nollan/Dolan essential-nexus and rough-proportionality requirements.
2. The court did not need to decide the merits of the court of appeals' interpretation of the individual-and-discretionary requirement because the drainage fee independently fell within RIPRA's legislatively formulated-fee exception.

KEY QUOTATIONS

"We hold that the court of appeals' conclusion was correct but for different reasons than those relied upon by that court." (220 P.3d at 560)

"Therefore, neither the promulgation of the drainage fee nor Colorado Springs' decision to deny Wolf Ranch's request for exemption from the fee constituted a discretionary adjudicative activity subject to RIPRA." (220 P.3d at 566)

"We hold that the drainage fee assessed to Wolf Ranch (and all owners of real property in the Cottonwood Creek Basin) by Colorado Springs falls under the exception for "legislatively formulated [fees that are] imposed on a broad class of property owners" under section 29-20-203(1)." (220 P.3d at 566)

FACTUAL BACKGROUND

Colorado Springs imposed a uniform drainage fee on developers within the Cottonwood Creek drainage basin as a condition of land-use approvals. Wolf Ranch owned approximately 1,900 acres in the basin and sought to develop approximately 1,600 acres as a closed or integrated basin, which would have exempted the property from the drainage fee. The City Drainage Board and City Council denied the exemption, potentially requiring Wolf Ranch to pay between six and nine million dollars after offsets. Wolf Ranch argued that the fee was subject to RIPRA's essential-nexus and rough-proportionality requirements.

PROCEDURAL HISTORY

Wolf Ranch sought an exemption from Colorado Springs' Cottonwood Creek Basin drainage fee. The City Drainage Board denied the request, and the City Council affirmed the denial. The El Paso County District Court denied Wolf Ranch's petition, concluding that Wolf Ranch had not raised its RIPRA challenge before the administrative bodies and therefore could not raise it for the first time on appeal. The Colorado Court of Appeals affirmed on different grounds, holding that RIPRA was not triggered because the fee amount was not determined

on an individual and discretionary basis. The Supreme Court of Colorado affirmed the court of appeals' judgment, but for different reasons, and directed remand to the district court for further proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The judgment of the Colorado Court of Appeals was affirmed with directions to remand the matter to the district court for further proceedings consistent with the Supreme Court's opinion.

CASES CITED

- Wolf Ranch, LLC v. City of Colorado Springs, 207 P.3d 875 (Colo. App. 2008)
- People v. Valenzuela, 216 P.3d 588, 590 (Colo. 2009)
- Armstrong v. United States, 364 U.S. 40, 49 (1960)
- Krupp v. Breckenridge Sanitation District, 19 P.3d 687, 695-97 (Colo. 2001)
- Nollan v. California Coastal Commission, 483 U.S. 825, 836-37 (1987)
- Dolan v. City of Tigard, 512 U.S. 374, 386-96 (1994)
- Penn Central Transportation Co. v. City of New York, 438 U.S. 104, 124 (1978)
- Ehrlich v. City of Culver City, 12 Cal. 4th 854, 911 P.2d 429, 447 (1996)
- City of Littleton v. State, 855 P.2d 448, 452 (Colo. 1993)
- Zelinger v. City & County of Denver, 724 P.2d 1356, 1359 (Colo. 1986)

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