

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION ONE

Stephen Dreher et al. v. City of Los Angeles Department of Water and
Power

Dreher · No. B329610 · Decided December 8, 2025

SUMMARY

The California Court of Appeal affirmed a judgment concerning challenges to tiered water rates imposed by the Los Angeles Department of Water and Power under article XIII D of the California Constitution. The court held that Health and Safety Code section 5472 required payment under protest for a refund claim and that the City demonstrated its tiered rates were proportional to the cost of providing water service. The court upheld a writ requiring removal of a low-income subsidy charge but rejected the plaintiffs’ claims for refunds and further relief.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division One
JURISDICTION	California Court of Appeal, Second Appellate District, Division One
DECIDED	December 8, 2025
DOCKET	B329610
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of the Los Angeles County Superior Court in a writ and damages action challenging LADWP water rates under article XIII D, section 6, subdivision (b), of the California Constitution.
STANDARD OF REVIEW	The court independently reviewed the constitutionality of the rates under Proposition 218, without deference to the agency's legal determination; factual findings and the sufficiency of the agency's analytical methods and data were reviewed under the substantial-evidence standard. Statutory interpretation was reviewed de novo.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Stephen Dreher et al. v. City of Los Angeles Department of Water and Power

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QUESTIONS PRESENTED

1. Whether Health and Safety Code section 5472 applies to a refund claim concerning water-delivery charges imposed by a city under section 5471.
2. Whether failure to pay the challenged charges under protest bars the Dreher's claim for a prejudgment refund of the unlawful low-income subsidy charges.
3. Whether the City's tiered water rates complied with article XIII D, section 6, subdivision (b)(3), including whether the City had to trace the physical source of water delivered to each parcel and tier.
4. Whether the City's allocation of peak pumping and storage costs to higher-usage tiers violated the proportionality requirement.
5. Whether the City's use of water-conservation objectives in setting tier allotments violated article XIII D, section 6, subdivision (b)(3).

HOLDINGS

1. Section 5472 applies to the Dreher's claim for a refund of the low-income subsidy portion of LADWP's water-delivery charges because the charges were fixed pursuant to section 5471 by a city ordinance approved by more than a two-thirds vote and were charges for services connected with the City's water system.
2. The Dreher's failure to pay the water charges under protest barred their claim for a prejudgment refund of the low-income subsidy charges.
3. The City's tiered water rates, excluding the invalid low-income subsidy component, complied with article XIII D, section 6, subdivision (b)(3), because the City demonstrated that the rates did not exceed the proportional cost of service attributable to the parcel.

KEY QUOTATIONS

"The City was required to prove that the rates it charged were proportional to the cost of service attributable to the parcel. It was not required to meet the Dreher's proposed standard of proving it determined the exact water supply costs for each individual parcel by, among other things, tracing each of its four separate sources of water from its genesis to the parcel where it was used." (at 2-3)

"In sum, section 5472 afforded the Dreher's an appropriate refund remedy for the unlawful LISA charges, but they failed to comply with the payment under protest requirement. Consequently, their claim for a retrospective refund is barred." (at 61-62)

"The Constitution requires proportionality, not exactness." (at 67-68)

FACTUAL BACKGROUND

In 2016, the Los Angeles City Council approved LADWP water rates containing four usage tiers, a water supply cost adjustment, peak pumping and storage costs, and a low-income subsidy adjustment charged to most customers. The Dreheres challenged the rates under article XIII D, section 6, subdivision (b), contending that the low-income subsidy unlawfully charged nonqualifying customers for another customer's subsidy and that the tiered rates exceeded the proportional cost of service attributable to their parcel. LADWP's rate study calculated the costs of four water sources, allocated supply costs among tiers through formulas, and assigned incremental peak pumping and storage costs to higher-usage tiers. The trial court invalidated the low-income subsidy component but upheld the tiered rates.

PROCEDURAL HISTORY

The Dreheres filed a class claim in 2018 and then filed an action in 2019 seeking damages, refunds, declaratory relief, injunctive relief, and a writ of mandate. The trial court held that the low-income subsidy adjustment violated article XIII D and issued a peremptory writ requiring the City to stop charging it and to refund postjudgment charges, but held that the City's tiered water rates otherwise complied with the Constitution. The court denied a prejudgment refund because the Dreheres had not paid the charges under protest as required by Health and Safety Code section 5472. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- City of San Buenaventura v. United Water Conservation Dist. (2017) 3 Cal.5th 1191, 1200
- Bighorn-Desert View Water Agency v. Verjil (2006) 39 Cal.4th 205, 217
- Citizens for Fair REU Rates v. City of Redding (2018) 6 Cal.5th 1, 10
- Morgan v. Imperial Irrigation Dist. (2014) 223 Cal.App.4th 892, 908, 912-918
- Capistrano Taxpayers Association v. City of San Juan Capistrano (2015) 235 Cal.App.4th 1493, 1497-1498, 1505-1511, 1515
- City of Palmdale v. Palmdale Water Dist. (2011) 198 Cal.App.4th 926, 936-937
- Los Altos Golf & Country Club v. County of Santa Clara (2008) 165 Cal.App.4th 198, 205-207
- Padilla v. City of San Jose (2022) 78 Cal.App.5th 1073, 1077-1079
- Carachure v. City of Azusa (2025) 110 Cal.App.5th 776, 784-785, 791-792
- Richmond v. Shasta Community Services Dist. (2004) 32 Cal.4th 409, 427, 430
- McKesson Corp. v. Division of Alcoholic Beverages and Tobacco (1990) 496 U.S. 18, 22, 51
- McWilliams v. City of Long Beach (2013) 56 Cal.4th 613, 621
- Howard Jarvis Taxpayers Association v. Coachella Valley Water District (2025) 108 Cal.App.5th 485, 492, 514-516
- Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority (2008) 44 Cal.4th 431, 448-449
- Patz v. City of San Diego (2025) 113 Cal.App.5th 225, 263, 268, 271, 285

- KCSFV I, LLC v. Florin County Water Dist. (2021) 64 Cal.App.5th 1015, 1029-1030
- Coziahr v. Otay Water Dist. (2024) 103 Cal.App.5th 785, 797-803, 810, 817

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