Headnotes

[Cited NaN times for this legal issue]
Time Warner Telecom of Oregon, LLC v. City of Portland, 452 F.Supp.2d 1107

Grants in general.
D.Or.,2006
Under Oregon law, municipal franchise agreement is mutually binding contract, subject to
date law governing contracts.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Time Warner Telecom of Oregon, LLC v. City of Portland, 452 F.Supp.2d 1107
D.Or.,2006
Under Oregon law, doubtful terms in municipal franchise agreement are to be
cstrued strictly against grantee and liberally in favor of public.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
State/Operating Contractors ABS Emissions, Inc. v. Operating Contractors/State, 985 S.W.2d 646
Tex.App.Austin,1999
One who claims a franchise right or privilege in derogation of the common rights of the
public must prove his title thereto by a grant clearly and definitely expressed, and
cannot enlarge it by equivocal or doubtful provisions or probable inferences.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
State/Operating Contractors ABS Emissions, Inc. v. Operating Contractors/State, 985 S.W.2d 646
Tex.App.Austin,1999
Grant of a franchise is construe in favor of the public, and, if the language used is ambiguous, the grant is to be
construed in favor of the grantor and against the grantee.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Enforcement of a condition subsequent to a franchise is generally reserved for the
grantor alone as a matter of property and contract law.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Petition of Vermont Elec. Power Producers, Inc., 683 A.2d 716
Vt.,1996
Any ambiguity regarding nature of grant of franchise must be construe strictly against grantee.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

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Shell Cal. Pipeline Co. v. City of Compton, 41 Cal.Rptr.2d 753
Cal.App.2.Dist.,1995
Franchise laws, including Broughton Act and Franchise Act of 1937, merely specify terms and conditions upon which franchise may be granted; however, they do not preclude acquisition of easement under law of eminent domain. West's Ann.Cal.Pub.Util.Code §§ 6001 et seq., 6201 et seq.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Delmarva Power & Light Co. v. City of Seaford, 575 A.2d 1089
Del.,1990
Any ambiguity regarding nature of grant of franchise must be construed strictly against donee.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Morristown Emergency and Rescue Squad, Inc. v. Volunteer Development Co., Inc., 793 S.W.2d 262
Tenn.App.,1990
In order for county or municipality to grant franchises, power to make such grant must be expressly conferred by the legislature.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Communications Systems, Inc. v. City of Danville, Ky., 880 F.2d 887
Under Kentucky law, legislative act performed by municipality in awarding franchise cannot be set aside in absence of fraud, collusion, or dishonesty.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Communications Systems, Inc. v. City of Danville, Ky., 880 F.2d 887
Kentucky Constitution provision requiring city to award franchises to “highest and best bid” does not preclude city's allowing of amendments to franchise bids. Ky.Const. § 164.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

General Telephone Co. of Northwest, Inc. v. City of Bothell, 716 P.2d 879
Wash.,1986
Power to grant franchises is a sovereign power resting in state, although state may delegate such power to cities.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

General Telephone Co. of Northwest, Inc. v. City of Bothell, 716 P.2d 879
Wash.,1986
Municipality cannot, under pretense of regulation as an exercise of police power, force a contract or franchise upon grantee.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Gas Light Co. of Columbus v. Town of Bibb City, 322 S.E.2d 250
Ga.,1984

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Grants of franchises are to be construed in favor of the general public and against the grantee. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Citiwide News, Inc. v. New York City Transit Authority, 467 N.E.2d 241
N.Y., 1984
Contract in nature of lease by public entity as lessor or by which franchise or license is granted need not, generally, be subjected to competitive bidding process, for such contract does not ordinarily involve expenditure of public money. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Tampa-Hillsborough County Expressway Authority v. K.E. Morris Alignment Service, Inc., 444 So.2d 926
Fla., 1983
Legislative grants of property or franchise rights must, when construction is necessary, be strictly construed in favor of state and against grantee. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Office of Communication of United Church of Christ v. F.C.C., 707 F.2d 1413
C.A.D.C., 1983
Public possesses an unassailable right to participate in the disposition of valuable public licenses, free of charge, to “public trustees.” Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
N.D.Miss. Greenville Div., 1982
Grants of franchises which tend to exclude competition are to be strictly interpreted against the grantee and in favor of the public. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
City and Borough of Juneau v. Alaska Elec. Light & Power Co., 622 P.2d 954
Alaska, 1981
Once granted, franchise becomes a contract binding upon both parties. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Lasday v. Allegheny County, 423 A.2d 789
Plaintiff, who operated newsstands and jewelry and gift shop in airport, did not have benefit of common-law franchise with county pursuant to concession agreements, in that no county trademark or trade name was involved. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Arnold Transit Co. v. City of Mackinac Island, 297 N.W.2d 904
Mich.App., 1980
Ability of grantor of franchise to exact from franchisee more than cost of regulating operation stems from fact that franchise is a right, sometimes referred to even as property right, granted for consideration. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

While franchise fee and other compensation may change after investigation, the formal contract must not be materially different from the franchise petition, as any other determination would make meaningless the notice of original petition, which under New York City Charter is a crucial step in the franchise process. New York City Charter, §§ 368, 371.

Since a franchise constitutes a contract, the terms and conditions thereof are not subject to alteration without the consent of the holder unless the right of alteration has been reserved in the contract.

Grant of an exclusive right for a definite period of time falls within the commonly established definition of “franchise” and, absent authority in the charter, city is without power to grant such a franchise. See publication Words and Phrases for other judicial constructions and definitions.

Franchise is subject of contract between grantor and grantee and is, in fact, contract when requisite element of consideration is present; it is binding usually upon grantor and grantee and is enforceable according to its terms and tenor.

Where notice for bids published by county for the granting of franchise for the removal and disposal of garbage and solid waste material made no mention that an exclusive franchise would be awarded to any person, exclusive franchise was void for lack of due advertisement. Const. § 164.

Granting of certificate of public convenience and necessity to applicant whose ability to perform is contingent upon occurrence of future events is not consistent with statutory requirement that each applicant for certificate possess ability to perform efficiently a service for which authority is requested.
Artesian Water Co. v. State, Dept. of Highways and Transp., 330 A.2d 432
Del.Super., 1974
A franchise presupposes a grant from the sovereign. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Artesian Water Co. v. State, Dept. of Highways and Transp., 330 A.2d 432
Del.Super., 1974
Labeling of grant as a franchise does not necessarily repose in it any real property rights. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Radio Communications, Inc. v. Public Service Commission, 314 A.2d 118
Md., 1974
Granting of franchise is legislative function which may be exercised only by legislature or municipality to which power has been delegated and not by Public Service Commission or Department of Assessments and Taxation. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

KAKE-TV & Radio, Inc. v. City of Wichita, 516 P.2d 929
Kan., 1973
Right to question validity of franchise is in granting authority. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

KAKE-TV & Radio, Inc. v. City of Wichita, 516 P.2d 929
Kan., 1973
Franchise is not subject to collateral attack by private party in absence of showing that he has special interest or suffers some peculiar injury distinct from that of citizens generally. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Western Pennsylvania Water Co. v. Com., Public Utility Commission, 311 A.2d 370
Certificate of public convenience is subject to modification or rescission for cause but Public Utility Commission may not amend or rescind in arbitrary, capricious, or unreasonable manner. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Application of City and County of Honolulu Corp. Counsel, 507 P.2d 169
Haw., 1973
Section of franchise agreement providing that amount to be paid for purchase of franchisee's property shall not exceed actual cost of physical property or the actual value of the tangible property establishes two methods of valuation for two different classes of property; actual cost is mandated to be the maximum for physical property, land and improvements and actual value is mandated to be the maximum for tangible personal property. Laws 1921, Act 186, § 20 as amended by Laws 1967, Act 300. Copr. (C) West 2008 No Claim to Orig. U.S.
In all grants of special rights or privileges by the government to private individuals, the words of the privilege granted are construed strictly against the grantee. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Where terms of franchise are uncertain and reasonably susceptible to multiple meanings, or if the provisions of the franchise are conflicting or ambiguous, the terms of the franchise are construed favorably to the public interests. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

A franchise may be granted only by the legislature or by a municipal corporation to which that power has been delegated. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Power to grant franchise is inherent incident of sovereignty and resides in legislature; "grant of franchise is legislative act, but legislature may delegate power to affected municipalities. N.J.S.A. 40:14B-61. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Granting of franchises to operate a public utility is an exercise of legislative function of the sovereign, which may be delegated by statute to a duly designated agency or commission. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

State, if it chooses to do so, can exercise its sovereign power to grant right to operate within limits of municipal corporation directly and without requiring municipal consent. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Legislative power to grant right to use public streets can be exercised by enactment of general statutes for incorporating companies. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works
Dickinson v. Maine Public Service Co., 244 A.2d 549
Me., 1968
Legislature could not grant to cooperatives territorial protection like that given fully regulated public utilities without subjecting cooperatives to full regulatory control. 35 M.R.S.A. § 2301. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Richmond v. Chesapeake & Potomac Tel. Co. of Va., 140 S.E.2d 683
Va., 1965
Language of franchise must be taken most strongly against grantee. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

State ex rel. Public Water Supply Dist. No. 2 of Jackson County v. Burton, 379 S.W.2d 593
Mo., 1964
A corporation's charter and the local franchise it obtains provide the fundamental bases for a public utility's operation, and the certificate of convenience and necessity issued by the commission cannot enlarge the authority conferred by the charter and franchise. Section 393.170 RSMo 1959, V.A.M.S. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Mesa v. Salt River Project Agr. Imp. and Power Dist., 373 P.2d 722
Ariz., 1962
The power to grant franchises resides in the State and a city in granting a franchise acts as an agent for the State. A.R.S.Const. art. 2, § 2. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Mid-America Pipeline Co. v. Iowa State Commerce Commission, 114 N.W.2d 622
Iowa, 1962
The holder of a permit or franchise generally has no right to a monopoly and is subject to competition, but such must be lawful competition. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Town of Coushatta v. Valley Elec. Membership Corp., 139 So.2d 822
La.App.2.Cir., 1961
Generally, franchise may be questioned only by sovereign authority which granted it, and is not subject to collateral attack, particularly where interested public authorities recognize its existence. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Town of Coushatta v. Valley Elec. Membership Corp., 139 So.2d 822
La.App.2.Cir., 1961
A franchise grant generally carries with it whatever is essential to its exercise or enjoyment. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

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State ex rel. Williamson v. Garrison, 363 P.2d 285
Okla., 1961
A franchise granted in conformity with the provisions of a city charter and the Constitution of Oklahoma will be approved. 11 O.S. 1951 §§ 61-63.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

State ex rel. Williamson v. Garrison, 363 P.2d 285
Okla., 1961
A franchise issued by a noncharter municipality according to the statutes and the Constitution will be approved. 11 O.S. 1951 §§ 61-63.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Mann v. City of Bakersfield, 13 Cal.Rptr. 211
Cal.App.4.Dist., 1961
Public grant is to be construed in favor of public interests.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Miller v. City of Owensboro, 343 S.W.2d 398
Ky., 1961
Lease of property owned by city in proprietary capacity does not constitute a “franchise”, within meaning of Constitution section limiting term of franchise. KRS 96.520; ?Const. §§ 162, 164, 179. See publication Words and Phrases for other judicial constructions and definitions.
Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Milwaukee v. Public Service Commission, 104 N.W.2d 167
Wis., 1960
Municipal utilities are exempt from operation of subsection of statute to effect that whenever any city or village at time of its incorporation included territory in which a public utility had been lawfully engaged in rendering service, such utility shall be deemed to possess a franchise to operate in city or village, but that such subsection shall not apply to any public utility organized under any provision of chapter relating to general municipality law. W.S.A. 66.061(1)(d).Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

New Rochelle Water Co. v. State, 179 N.Y.S.2d 994
N.Y.Ct.Cl., 1958
One of conditions of a franchise is continuation of service.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Atlantic Coast Line R. Co. v. Southern Ry. Co., 104 S.E.2d 77
Ga., 1958
Generally, no one other than state or its political subdivisions which grant a franchise can assail validity of such franchise or right to exercise rights thereunder, especially in a collateral proceeding.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

When operative properties are integrated and employed by utility as a unit and production of receipts by one part of property is dependent upon or contributes to production of receipts by other parts, receipts produced by each part cannot be identified specifically and total receipts must therefore be apportioned among the various properties according to the factors that produce them. West's Ann.Public Util.Code, §§ 6001-6017.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Public utility corporations accept their franchises from State subject to valid exercise of police power of State and to their duty to conform to reasonable regulations designed to promote public safety and convenience.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Public service franchises are granted primarily for public benefit and when accepted constitute contract, and grantee undertakes in consideration for privilege granted to perform services authorized.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

One who claims a franchise or privilege in derogation of common rights of public must prove his title thereto by a clearly and definitely expressed grant, and cannot enlarge it by equivocal or doubtful provisions or probable inferences.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

The granting of a “franchise” is the grant of a property right and involves the granting of a privilege, but all privileges granted do not become franchises. See publication Words and Phrases for other judicial constructions and definitions. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works
Sheridan County Elec. Co-op. v. Montana-Dakota Utilities Co., 270 P.2d 742
Mont., 1954
The grantee of a franchise takes nothing that is not clearly given by the grant; and nothing passes by implication except what may be necessary to carry into effect the obvious intent of the grant.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

N.L.R.B. v. Bill Daniels, Inc., 202 F.2d 579
C.A.6, 1953
Contracts for sales of automobiles, parts and accessories, by automobile manufacturer to independent retail dealers, were not “franchises,” which must be conferred by sovereignty or state, but agreements between private entities arising from general right to engage in lawful business, which is part of citizen’s liberty. See publication Words and Phrases for other judicial constructions and definitions.
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State ex rel. Utilities Commission v. Ray, 73 S.E.2d 870
N.C., 1953
In applications for removal of restrictions in franchises, the courts will not review or reverse the exercise of discretionary power by the administrative agency except upon showing of capricious, unreasonable, or arbitrary action or disregard of law.
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Victory Cab Co. v. City of Charlotte, 68 S.E.2d 433
N.C., 1951
The grant of a franchise when accepted and acted on creates contract which is binding on grantor and grantee, and grant contemplates, and usually embraces, express conditions and stipulations, as to standards of service and so forth, which grantee or holder of franchise must perform. G.S. § 160-200, subd. 36a.
Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Camdenton v. Sho-Me Power Corp., 237 S.W.2d 94
Mo., 1951
Power to grant franchises resides in the state, and a city, in granting a franchise, acts as agent for the state.
Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Camdenton v. Sho-Me Power Corp., 237 S.W.2d 94
Mo., 1951

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Although a franchise must in final analysis come from the state, it may be granted by a municipality within the scope of its charter as agent of the state.

[Cited NaN times for this legal issue]
Schisler v. Merchants Trust Co. of Muncie, 94 N.E.2d 665
Ind., 1950
In all grants by government to individuals or corporations of rights, privileges, and franchises, the words are to be taken most strongly against the grantee.

[Cited NaN times for this legal issue]
Schisler v. Merchants Trust Co. of Muncie, 94 N.E.2d 665
Ind., 1950
One who claims franchise in derogation of the common rights of the public must prove title thereto by grant clearly and definitely expressed, and cannot enlarge it by equivocal or doubtful provisions or probable inferences.

[Cited NaN times for this legal issue]
Hackensack Water Co. v. Ruta, 69 A.2d 321
N.J., 1949
In view that the franchise of a water company to lay pipes beneath public roads and legislative tribunal and not from the municipality, the municipality may not nullify the legislative franchise grant, though it may regulate its streets, is derived from the state through its exercise to serve the public convenience and necessity and the interests of abutting landowners, and may impose such conditions as are necessary for protection of the easement of passage, and the public safety and welfare and the streets and highways against injury and damage, and contiguous landowners against loss or undue interference with their rights. P.L.1876, p. 103, § 12; ?R.S. 48:19-6, 15, 17; ?R.S. 48:19-6, 15, 17, N.J.S.A.

[Cited NaN times for this legal issue]
Public Service Coordinated Transport v. Newark-Elizabeth Independent Bus Owners Ass'n, 69 A.2d 22
N.J., 1949
Regulation and control of public utilities by statutory authority is for the benefit of the state and its citizens, and not for the benefit of established utilities or competitors of a rival company which may obtain a franchise or operating right in accordance with pertinent enabling legislation so that a competitor is not a “party in interest” who can collaterally attack a franchise or operating right granted to a rival pursuant to such statutory authority. See publication Words and Phrases for other judicial constructions and definitions.

[Cited NaN times for this legal issue]
Albuquerque Bus Co. v. Everly, 211 P.2d 127
N.M., 1949
Where the meaning of a grant or contract regarding any public franchise is ambiguous, it will be construed favorably to the rights of the public.

[Cited NaN times for this legal issue]
Incorporated Town of Hempstead v. Gulf States Utilities Co., 206 S.W.2d 227
Tex., 1947

Generally a grant of a franchise is to be construed in favor of the public, and, if the language is ambiguous, the grant is to be construed in favor of the grantor and against the grantee. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Incorporated Town of Hempstead v. Gulf States Utilities Co., 206 S.W.2d 227
Tex., 1947
Generally, nothing passes by implication by the grant of a franchise, except what may be necessary to give effect to the obvious intent of the grant. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Salinas v. Pacific Tel. & Tel. Co., 164 P.2d 905
Cal.App.1.Dist., 1946
A delegation of power to grant franchises is strictly construed in favor of the public. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Incorporated Town of Pittsburg v. Cochrane, 159 P.2d 534
Okla., 1945
A municipal corporation does not by mere grant of franchise to public service corporation become the owner of tangible property used in operating the service. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Incorporated Town of Pittsburg v. Cochrane, 159 P.2d 534
Okla., 1945
If after termination of franchise public service company continues to furnish and town accepts the service, an implied contract of indefinite duration arises and company functions as a quasi public utility subject to terms of former franchise and rules of corporation commission, such arrangement being terminable by either party upon such reasonable notice as is consistent with duty owed by both to inhabitants of town. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Seattle v. Western Union Telegraph Co., 153 P.2d 859
Wash., 1944
Legislative grants are to be strictly construed in favor of public. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Oakland v. Key System, 149 P.2d 195
Cal.App.1.Dist., 1944
When the grant of a franchise is in excess of grantor's powers, there is no obligation on its part to restore any real or supposed benefits. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Ocean Park etc. Corp. v. City of Santa Monica, 104 P.2d 668
Cal.App.1.Dist., 1940
A franchise may be severable to give effect to the rights of the parties under the terms thereof. Copr. (C) West

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The granting of franchises is the exercise of legislative function of sovereignty.

Hamilton Lumber &Manufacturing Co. v. City of Paterson, 1 A.2d 311
N.J.Sup., 1938
The city of Paterson was without authority to grant permission to lay, maintain, and operate a private railroad siding longitudinally on a public street, notwithstanding the street was a wide, unimproved, dirt street, only one block long, and located in industrial zone of city.

Territory v. Fung, 34 Haw. 52
Haw.Terr., 1936
A “franchise” is derived from grant of sovereign power and is conceived of as subject to contract, perpetual if not limited or qualified as to duration and subject to alienation, while a “governmental license” not imposed for revenue, has its source in police power and is considered a mere privilege, is not of itself a contract, is revocable and hence temporary, and is not transferable unless otherwise so provided.

Neils v. City of Seattle, 53 P.2d 848
Wash., 1936
Power to grant franchises is a sovereign power, resting in state, and may be delegated by state, but it is not within powers of cities unless expressly delegated to them by state.

Pardeeville Elec. Light Co. v. Public Service Com'n of Wisconsin, 263 N.W. 366
Wis., 1935
Statute validating public utility franchises and permits held applicable only to franchises granted prior to July 11, 1907 (St.1933, §§ 196.55, 196.56).
A court will enjoin the granting of a franchise which may vest in a corporation prohibited by Gen.Code, § 614-73, from owning or operating a public utility.

Copeland v. City of Waldport, 31 P.2d 670
Or., 1934
Public grants are construed strictly, and nothing passes by implication as against public rights.

Kentucky Utilities Co. v. Board of Com'r's of City of Paris, 71 S.W.2d 1024
Ky., 1933
Granting of franchise is exercise of legislative function of sovereignty.

Kentucky Utilities Co. v. Board of Com'r's of City of Paris, 71 S.W.2d 1024
Ky., 1933
State's sovereign power to grant franchises may, by constitutional or legislative provisions, be delegated to local political subdivisions, such as municipalities.

Statute requiring Utilities Commission's approval of franchises preserves to municipalities primary power to grant or withhold franchise, but also vests commission with power of regulation and control. Code 1932, § 5453.

In section of statute respecting certificates of convenience and necessity, stating "provisions of this statute" do not apply in certain cases, quoted phrase refers to preceding sections of article in which such section appears. Code 1932, § 5508. See publication Words and Phrases for other judicial constructions and definitions.
Certification of convenience and necessity required by one statute is in addition to Utilities Commission's approval of franchise granted by municipality to public utility required by another statute. Code 1932, §§ 5502-5508, 5453.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Statutes respecting public convenience and necessity, providing that they shall not apply where municipality by ordinance declares that public necessity requires competing public utility, do not repeal statute requiring approval of Utilities Commission to make franchises valid. Code 1932, §§ 5502-5508, 5453. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Delegation of legislative power to grant franchises directly affecting prerogatives of state should be accompanied by appropriate limitations. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Power to grant franchises resides in state, and city, in granting franchise, acts as state's agent. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works


Revocable Permit Act, authorizing public utility to exchange municipal franchise for permit to conduct business, revocable by Legislature, held unconstitutional. Laws 1925, c. 102. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Certificate of convenience and necessity issued by Ohio Utilities Commission to bus company covering interstate commerce is not “franchise” or “property right,” as regards issuance of certificate to competitor. U.S.C.A.
Const. art. 1, § 8, cl. 3; ?Const.Amend. 14. See publication Words and Phrases for other judicial constructions and definitions.

Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Central Power Co. v. City of Hastings, 52 F.2d 487
Franchise granted by municipal corporation, when ambiguous, must be construed strictly for granter.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Privileges not unequivocally granted under franchise from municipal corporation are withheld.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Canons of interpretation applicable to contracts in general are applicable to franchise contracts granted by municipal corporations.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Public franchise, though construed in favor of public, must nevertheless be given just and reasonable construction.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Constitution and laws must be substantially complied with or grant of franchise is void.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Designation of oyster bed merely gave exclusive right to oysters from particular place, preserving every other right of public thereto (Gen.St.1930, §§ 3277, 3289, 3293, 3303, 3304).Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Franchises should be construed most strongly against grantee and in favor of public.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Grants made by the Constitution or statutes to private persons or public service corporations of rights belonging to the state or to the public must be construed most strongly in favor of the public; and only that which is granted in clear and explicit terms passes by the grant. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Franchises must be strictly construed, and construction least harmful to public adopted. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Claim of city for improvement of property and road bed of grantee under franchise contract, which improvement was made under Gen.Code, §§ 3812-2 and 3812-3, afterwards held unconstitutional, was not a lien on grantee's property. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Annual payment to city of percentage of gross earnings required by franchise contract was not a lien on grantee's property where contract did not so provide. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Claims of cities for grantee's share of street improvements or repairs constituted lien against grantee's property under franchise contract and were entitled to priority over mortgages. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Statute authorizing utilities to exchange municipal franchise for permit revocable by Legislature held invalid as precluding electors from granting, renewing, or extending franchises. Laws 1925, c. 102; ?OkI.St.Ann. Const. art. 18, § 5(a). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Statute authorizing utilities to exchange municipal franchise for revocable permits held invalid as precluding 25 per cent. of electors from filing demand for franchise. Laws 1925, c. 102; ?Const. art. 18, § 5(b). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

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Statute authorizing utilities to exchange municipal franchise for revocable permits held invalid as precluding 25 per cent. of electors from filing demand for franchise. Laws 1925, c. 102; ?Const. art. 18, § 5(b).Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works


Constitutional right reserved to electors of extending or renewing municipal franchises cannot be taken away by Legislature. Const. art. 18, §§ 5(a), 5(b).Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Constitutional right reserved to electors of extending or renewing municipal franchises cannot be taken away by Legislature. Const. art. 18, §§ 5(a), 5(b).Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works
C [Cited NaN times for this legal issue]
In re Oklahoma Power Co., 284 P. 12
Okl., 1930
Statute authorizing utilities to exchange municipal franchise for revocable permit held invalid as precluding 25 per cent. of electors from filing demand for franchise and municipal authorities from acting thereon. Laws 1925, c. 102; Okl.St.Ann. Const. art. 18, § 5(b). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
Oklahoma Natural Gas Corp. v. State, 284 P. 40
Okl., 1930
Statute authorizing utilities to exchange municipal franchise for revocable permit held invalid as precluding 25 per cent. of electors from filing demand for franchise and municipal authorities from acting thereon. Laws 1925, c. 102; Okl.St.Ann. Const. art. 18, § 5(b). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

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Oklahoma Natural Gas Corp. v. State, 284 P. 40
Okl., 1930
Constitutional right reserved to electors of extending or renewing municipal franchises cannot be taken away by Legislature. Const. art. 18, §§ 5(a), 5(b). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
Oklahoma Natural Gas Corp. v. State, 284 P. 40
Okl., 1930
Statute authorizing utilities to exchange municipal franchise for permit revocable by Legislature held invalid as precluding electors from granting, renewing, or extending franchises. Laws 1925, c. 102; Okl.St.Ann. Const. art. 18, § 5(a). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
In re Okmulgee Gas Co., 284 P. 70
Okl., 1930
Constitutional right reserved to electors of extending or renewing municipal franchises cannot be taken away by Legislature. Const. art. 18, §§ 5(a), 5(b). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
In re Okmulgee Gas Co., 284 P. 70
Okl., 1930
Statute authorizing utilities to exchange municipal franchise for revocable permit held invalid as precluding 25 per cent. of electors from filing demand for franchise and municipal authorities from acting thereon. Laws 1925, c. 102; Okl.St.Ann. Const. art. 18, § 5(b). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
In re Okmulgee Gas Co., 284 P. 70
Okl., 1930
Statute authorizing utilities to exchange municipal franchise for permit revocable by Legislature held invalid as precluding electors from granting, renewing, or extending franchises. Laws 1925, c. 102; Okl.St.Ann. Const. art. 18, § 5(a). Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works


Statute authorizing utilities to exchange municipal franchise for revocable permits held invalid as precluding 25 per cent. of electors from filing demand for franchise. Laws 1925, c. 102; ?Const. art. 18, § 5(b).Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Any ambiguity in the terms, of a grant of a franchise must be construed against the grantees and in favor of the public, and nothing passes by implication.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

One relying on public grant as basis for private right must bring it expressly within grant or statute.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Grant of franchise, when accepted and acted upon by grantee, creates binding contract.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Order of Public Utility Commissioners, confining different lighting companies to different portions of borough, will not be disturbed on certiorari as concerns sufficiency of testimony, if testimony reasonably sustains finding. P.L.1911, pp. 376, 379, §§ 15 and 17, subsds. (b) (c), as amended by P.L.1926, pp. 226, 239.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Where the meaning of a grant or contract regarding any public franchise is doubtful or ambiguous, it will be construed favorably to the rights of the public; but, where the meaning is clear, the contract will be enforced.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works
Irvine Toll Bridge Co. v. Estill County, 275 S.W. 634, Ky., 1925
No one inherently possesses right to grant franchise, except sovereignty.

San Francisco-Oakland Terminal Rys. v. Alameda County, 225 P. 304, Cal. App. 1 Dist., 1924
Franchises granted after enactment of a statute must be deemed to have been made in contemplation of its terms.

City Sanitation Co. v. City of Casper, 206 P. 149, Wyo., 1922
The extent of a franchise granted by a municipality is measured by the terms of the grant and those implications only which are necessary to carry into effect the obvious intent of the grant.

Franchises granted by the public are to be construed strictly against the grantee and liberally in favor of the public.

City of Columbus v. Public Utilities Commission, 133 N.E. 800, Ohio, 1921
A franchise contract must be construed and enforced according to the standard of laws in force at the time it was entered into; the laws existing at such time becoming a part of the contract. (Per Marshall, C.J.)

Chicago, R.I. & P. Ry. Co. v. Taylor, 192 P. 349, Okla., 1920
Franchises granted by the public are to be construed strictly against the grantee and liberally in favor of the public.

Grants of rights and privileges by a state or municipality are strictly construed, and whatever is not unequivocally granted is withheld; nothing passing by implication.

Tampa & J. Ry. Co. v. Catts, 85 So. 364

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Franchises granted by the public are to be construed strictly against the grantee and liberally in favor of the public.

[Cited NaN times for this legal issue]
Simons Brick Co. v. City of Los Angeles, 187 P. 1066 Cal., 1920
Corporate privileges which are not ordinarily and necessarily an incident of the corporate franchise can be held to prevail over public rights only when it plainly and explicitly appears that such privileges have been in fact granted.

[H] [Cited NaN times for this legal issue]
Where after expiration of gas company's franchise village adopted further ordinance granting a renewal of the first franchise ordinance but on different terms, the first ordinance was not repealed by implication, and the later ordinances did not become binding on company until accepted by it.

[H] [Cited NaN times for this legal issue]
Where gas company did not accept terms of franchise ordinances enacted by village after expiration of original franchise ordinance, gas company could terminate its connection with village at any time and remove its property therefrom and an action did not lie to enjoin discontinuance or impairment of the service.

[H] [Cited NaN times for this legal issue]
Where franchise of gas company expired and thereafter village enacted two ordinances purporting to regulate gas company and rates thereof, schedule of rates filed after passage of such ordinances by gas company did not constitute acceptance of terms of the ordinances by gas company under Gen.Code, § 614-44, providing that filing of complaint by public utility under such section constitutes an acceptance of the terms of such ordinances.

[P] [Cited NaN times for this legal issue]
Atlantic Coast Electric Ry. Co. v. Board of Public Utility Com'rs, 104 A. 218 N.J.Err.App., 1918
The traction acts of 1893, and 1896 do not expressly authorize municipalities to contract with street railway companies, but the power is implied from the power to consent to a location of tracks and to impose lawful restrictions.

[C] [Cited NaN times for this legal issue]
Northern Ohio Traction & Light Co. v. State of Ohio ex rel. Pontius, 38 S.Ct. 196 U.S.Ohio, 1918

Under the Constitution and Statutes of Ohio, county commissioners in 1892 had power to grant franchises for railways over public roads valid for 25 years if not perpetually. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Cleveland Ry. Co. v. City of Cleveland, 119 N.E. 202
Ohio, 1918
Under the Constitution of Ohio, making all private property subservient to the public welfare, a contract by private person or corporation with the public, if of doubtful or uncertain meaning, should be construed most favorably to the public welfare. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
City of Spring Valley v. Chicago, O. & P.R. Co., 200 Ill.App. 352
Ill. App. 2 Dist., 1916
In ordinance granting to interurban railway additional franchises and rights of way through city, recital that it was intention or ordinance to grant railway a right of way into the city from the east, and through the same to the western boundary lines thereof, held clearly to grant a right of way over certain streets on which railway already had interurban lines. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Birmingham Waterworks Co. v. Hernandez, 71 So. 443
Ala., 1916
Franchises granted by the public are to be construed strictly against the grantee and liberally in favor of the public. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Terre Haute Paper Co. v. Terre Haute Waterworks Co., 110 N.E. 85
Ind. App. 1 Div., 1915
A public service corporation, such as a water company, has only such rights as its franchise defines. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Iowa Telephone Co. v. City of Keokuk, 226 F. 82
S.D. Iowa E. Div., 1915
When granting a franchise, Legislature or municipality impliedly reserves the power of regulation as to matters not expressly defined, but such reservation of powers does not include the power of confiscation or destruction. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Town of Haines v. Eastern Oregon Light & Power Co., 149 P. 87
Or., 1915
Grants made by the Constitution or statutes to private persons or public service corporations of rights belonging to the state or to the public must be construed most strongly in favor of the public; and only that which is granted in clear and explicit terms passes by the grant. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Town of Augusta v. Smith, 174 S.W. 543

Ark., 1915
Remedies of creditors of one holding a franchise to operate a light and water plant in a town on specified conditions are subordinate to the public rights. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

N.Y.Co., 1914
Where the language of a franchise is ambiguous, it will be construed against the grantee and in favor of the public, but, where free from ambiguity, the court will give the language used its ordinary and accepted meaning. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

N.Y.Co., 1914
Franchises giving valuable powers and privileges to corporations should be liberally construed in the public interest. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Colorado Springs v. Pike's Peak Hydro-Electric Co., 140 P. 921
Colo., 1914
A city is not to be charged by implication but only upon express contract. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

City of Colorado Springs v. Pike's Peak Hydro-Electric Co., 140 P. 921
Colo., 1914
What is received by a city for the grant of a franchise is to be considered in interpreting the provisions thereof imposing duties upon the grantee. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

State ex rel. De Burg v. Water Supply Co. of Albuquerque, 140 P. 1059
N.M., 1914
Where the meaning of a grant or contract regarding any public franchise is doubtful or ambiguous, it will be construed favorably to the rights of the public; but, where the meaning is clear, the contract will be enforced. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Christian-Todd Telephone Co. v. Commonwealth, 161 S.W. 543
Ky., 1913
Grant of a franchise being in the nature of a vested property right, it is subject to the performance of conditions and duties imposed on the grantee. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

State v. Des Moines City Ry. Co., 140 N.W. 437
Iowa, 1913
Grants made by the Constitution or statutes to private persons or public service corporations of rights belonging to the state or to the public must be construed most strongly in favor of the public; and only that which is gran-
Grants made by the Constitution or statutes to private persons or public service corporations of rights belonging to the state or to the public must be construed most strongly in favor of the public; and only that which is granted in clear and explicit terms passes by the grant.

Grants made by the Constitution or statutes to private persons or public service corporations of rights belonging to the state or to the public must be construed most strongly in favor of the public; and only that which is granted in clear and explicit terms passes by the grant.

Want of corporate power referable to defect in organization and not militating against existence de facto, or referable to limitations of corporate purpose specified in the organic articles, which under ordinary circumstances are only subject to be inquired into by the state, directly, does not affect capacity to acquire an indeterminate permit.

The general grant of power under the circumstances specified in section 1797m-77 of the Statutes (W.S.A. 196.55) to acquire an indeterminate permit, by necessary implication was intended to enlarge, if necessary, corporate powers, enabling the organization to legitimately deal with the state in the exchange of equivalents, to surrender its rights, whatever they may be, and take and enjoy the one offered in lieu thereof.

A water company held not entitled to have franchises which had expired independently valued for rate-fixing.
purposes. Corpron. (C) West 2008 No Claim to Orig. U.S. Govt. Works

>C [Cited NaN times for this legal issue]
Clark v. City of Los Angeles, 116 P. 722
Cal., 1911
Grants made by the Constitution or statutes to private persons or public service corporations of rights belonging to the state or to the public must be construed most strongly in favor of the public; and only that which is granted in clear and explicit terms passes by the grant. Corpron. (C) West 2008 No Claim to Orig. U.S. Govt. Works

>C [Cited NaN times for this legal issue]
City of La Crosse v. La Crosse Gas & Electric Co., 130 N.W. 530
Wis., 1911
A public franchise, burdened with a public revenue feature, is not grantable by a state agency, in the absence of express or unmistakable legislative authority to impose such a burden. Corpron. (C) West 2008 No Claim to Orig. U.S. Govt. Works

>H [Cited NaN times for this legal issue]
Boise City, Idaho v. Boise Artesian Hot & Cold Water Co., 186 F. 705
C.A.9. Idaho, 1911
Franchises and special privileges must be construed most strongly against the grantee and in favor of the government. Corpron. (C) West 2008 No Claim to Orig. U.S. Govt. Works

>C [Cited NaN times for this legal issue]
City of Shelbyville, Ky., v. Glover, 184 F. 234
C.A.6. Ky., 1910
Legislative or municipal grants or franchises in which the public has an interest are to be strictly construed in favor of the public. Corpron. (C) West 2008 No Claim to Orig. U.S. Govt. Works

>H [Cited NaN times for this legal issue]
People v. Detroit United Ry., 127 N.W. 748
Mich., 1910
The terms of a franchise must be construed strictly against the grantee. Corpron. (C) West 2008 No Claim to Orig. U.S. Govt. Works

>H [Cited NaN times for this legal issue]
Madera Waterworks v. City of Madera, 185 F. 281
C.C.S.D. Cal., N. Div., 1910
Grants made by the Constitution or statutes to private persons or public service corporations of rights belonging to the state or to the public must be construed most strongly in favor of the public; and only that which is granted in clear and explicit terms passes by the grant. Corpron. (C) West 2008 No Claim to Orig. U.S. Govt. Works

>H [Cited NaN times for this legal issue]
Madera Waterworks v. City of Madera, 185 F. 281
C.C.S.D. Cal., N. Div., 1910
The franchise of a water company to occupy and use the streets of a city must necessarily rest in a grant from the state, and the measure of its rights is to be determined from a construction of such grant purely as a matter of contract. Corpron. (C) West 2008 No Claim to Orig. U.S. Govt. Works

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Where the meaning of a grant or contract regarding any public franchise is doubtful or ambiguous, it will be construed favorably to the rights of the public; but, where the meaning is clear, the contract will be enforced.

A city governed by P.L. 1897, p. 46, N.J.S.A. 40:168-1, providing for the government of cities containing a population of less than 12,000 inhabitants, has no power to grant for the benefit of a company the privilege of laying pipes in the streets to pump sand to the beach front.

Power to pass a resolution giving permission to a society for the prevention of cruelty to animals to locate drinking fountains at certain places in the streets of a city is given its council by its charter, P.L.1863, p. 117, § 31, empowering the council to prescribe the manner in which corporations or persons shall exercise any privileges granted them in the use of any street for any purpose, and to make and regulate wells, pumps, and cisterns in the streets.

In the absence of any statute requiring a different acceptance of a franchise or privilege granted by a city, a written acceptance thereof subject to the conditions imposed is unnecessary, and the actual enjoyment of the privilege is a sufficient acceptance to create contractual obligations.

Grants made by the Constitution or statutes to private persons or public service corporations of rights belonging to the state or to the public must be construed most strongly in favor of the public; and only that which is granted in clear and explicit terms passes by the grant.
United Electric Co. v. City of Newark, 71 A. 237
N.J.Sup., 1908
By Act March 28, 1891, P.L. p. 249; ?1 Gen.St.1895, p. 465, as amended by Act April 22, 1897, P.L. p. 248, the power to pass an ordinance granting to a corporation the right to open the streets of the city of Newark and lay conduits for distribution of electricity, and to use such streets for such purposes, is lodged solely in the board of street and water commissioners of that city.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Spring Val. Water Co. v. City and County of San Francisco, 165 F. 667
C.C., N.D., Cal., 1908
The franchise of a water company to collect rates for water is property, and its value as well as whatever value attaches to its business as a going concern is to be considered in determining the value of its property for rate-fixing purposes, but the burden of proving such values rests upon the company. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

McGinnis v. City of San Jose, 96 P. 367
Cal., 1908
The presentation of an application to legislative body does not compel it to proceed to grant the franchise, or to take a single step in the direction of granting it. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

State v. Portland General Elec. Co., 95 P. 722
Or., 1908
Grants of franchises are strictly construed against the grantee, and nothing passes by implication. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

La., 1907
Municipal authorities are without power to grant franchises. This may be done by the state alone. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

McCarter v. Vineland Light & Power Co., 65 A. 1041
N.J.Ch., 1907
The Legislature has the power to bestow upon an individual the right to exercise those public franchises which can only be exercised through legislative sanction to the same extent that such powers can be bestowed by legislative enactment upon private corporations. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Van Duyne v. Knox Hat Mfg. Co., 64 A. 149
N.J.Ch., 1906
A municipality is a mere trustee for the public at large, and can only exercise the rights vested in it over streets for the furtherance of the rights of the public and is not authorized to grant the right to a private citizen to make
a special use for private purposes of the substratum of a public highway, the fee of which is owned by another; and hence the municipal authorities of a borough could not lawfully grant to a private citizen or corporation the right to lay water pipes in the streets to be used for private purposes.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Blair v. City of Chicago, 26 S.Ct. 427
U.S.III.,1906
A legislative grant of special and exclusive privileges must be made in plain terms in order to convey private rights in respect to public property, and to prevent the future control of such privileges in the public interest.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Stockton Gas & Elec. Co. v. San Joaquin County, 83 P. 54
Cal.,1905
Franchise extended by the constitutional provision to lay pipes and conduits, or erect poles and supply the inhabitants of a city with artificial light, is an incorporeal hereditament-is real estate in the nature of an easement pertaining to the streets of the city in which it is exercisable; that is inseparably annexed to the soil out of which the profit arises, and has a local situation in the place, and that place only, where the right is actually exercised.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
State v. Town of Monroe, 82 P. 888
Wash.,1905
The doctrine of ratification or estoppel cannot be urged against the defense of ultra vires, where such defense is invoked to defeat a franchise granted by public officers without authority of law.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Laukea v. Cooper, 2 U.S.Dist.Ct.Haw. 196
D.Haw.,1904
Grant of franchise to inmates of leper settlement involves reasonable opportunity on their part of receiving instruction on political issues.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Valparaiso City Water Co. v. City of Valparaiso, 69 N.E. 1018
Ind.App.,1904
An ordinance granting a waterworks franchise, and providing for the purchase of the plant by the city after a certain length of time, is to be construed favorably to the city, as are all grants of franchises by the public.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Scott v. City of La Porte, 69 N.E. 675
Ind.,1904
A city has no power to authorize anyone to exclusively furnish water for its use, and for that of its inhabitants.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works
The right to a franchise is not to be presumed in proceedings based on the existence of the right. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Twin Village Water Co. v. Damariscotta Gas Light Co., 56 A. 1112 Me., 1903
Permissive rights given by Pub.Laws 1885, p. 318, c. 378, regulating the erection of poles and lines for purposes of electricity, granted no franchise. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Scott v. City of Laporte, 68 N.E. 278 Ind., 1903
A municipal ordinance empowering a private water company to construct and maintain a system of waterworks for supplying water to the city and its inhabitants, and undertaking to bind the city, in addition to furnishing the power to transport the water, to pay a large sum for 21 years as water rentals, which amount is to be paid to the trustees of the company's bondholders, assuming to hypothecate the water plant of the city and pledging the city's power of taxation to meet such fixed charges, whereby the city becomes a guarantor of the entire transaction, is ultra vires, as employing its credit in the promotion of a private enterprise. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Spring Val. Waterworks v. City and County of San Francisco, 124 F. 574 C.C.N.D. Cal., 1903
The franchise of a water company in California to collect rates for water supplied, which, by the Constitution of the state, is declared to be property, and made taxable as such, is an element to be considered in determining the value of the corporate property necessarily employed in the supplying of water to a city and county, city or town, or the inhabitants thereof, as is also the enhanced value of the property by reason of the fact that the company has an established business, and is a going concern actually using the property in supplying water to consumers. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Const. art. 2, § 28 authorizing the General Assembly to cure omissions, defects and errors in instruments and proceedings arising out of want of conformity with the state laws, would not authorize the enactment of the curative provisions of section 31 of the Municipal Code providing that all unexpired grants of rights or franchises heretofore made by any municipality under any unconstitutional law were made valid or regranted. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

A public grant of franchises or privileges is to be strictly construed against the grantee and in favor of the public,
and nothing will pass except what is granted in clear and explicit terms. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Entire text of the legal issues cited is not visible in the image.]
Contracts of the nature of those in question in this action are not, merely from the fact that they cover a period of 31 years, and definitely and finally fix the rates and charges to be paid the grantees for the full period, prima facie void, as unreasonable and unfair. They are prima facie valid, and, in the absence of a showing of unreasonableness, must be upheld. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Reed v. City of Anoka, 88 N.W. 981 Minn., 1902
The question whether the necessities of a municipality justify a contract for so long a period of time, and the fairness and reasonableness of the terms thereof, are addressed to the sound judgment of the municipal officers; and, as such officers are presumed to act within the scope of their authority, and for the best interests of the municipality they represent, the burden to impeach the contract is upon the person who calls it in question. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

A city had no power to make a grant other than for a street railroad, and not for an interurban. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Columbus, Delaware & Northern Traction Co. v. Marriott, 47 W.L.B. 357 Ohio.Prob., 1902
Grants given to a corporation being in derogation of private rights must be strictly construed. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

State v. Portage City Water Co., 83 N.W. 697 Wis., 1900
It is not essential to a franchise that the grant be made direct; it is sufficient if it be made through a legitimate legislative agency. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

Iron Mountain R. Co. of Memphis v. City of Memphis, 96 F. 113 C.A. 6. Tenn., 1899
A resolution of a city council, passed with all the forms required for the passage of ordinances, adjudging that there has been a breach by a railroad company of a contract by which the city granted to its an easement and franchise in a street, and declaring a forfeiture of the rights granted, and a resumption of possession of the street by the city, although conditions upon a failure of the company to comply with certain requirements within a specified time, which time has elapsed, and the condition has been complied with, is a law of the state, within the meaning of section 10 of article 1 of the constitution, U.S.C.A., against the impairment of a state of the obligation of contracts. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

People ex rel. Dean v. Board of Sup'rs of Contra Costa County, 55 P. 131
It may be said that the action of the board of supervisors in granting a franchise under this act of the legislature is, at least, quasi judicial.

Los Angeles City Water Co. v. City of Los Angeles, 88 F. 720

The California statute of May 3, 1852 (St.Cal.1852, p. 171), providing for the incorporation of water companies, and which contains a provision preventing any municipality from depriving itself, by contract with such corporation, of the power to regulate water rates, does not affect the power of a municipality to limit its rights in this respect by a contract granting a waterworks franchise to individuals, as distinguished from a corporation organized under the act; nor is its power to so bind itself affected by the fact that such individuals intend to organize a corporation, and assign their franchise to it.

State v. Mayor, Etc., of Dover, 39 A. 705

The common council of Dover is without power to grant leave to a corporation organized under the general law of this state, entitled “An act concerning corporations,” to lay gas pipes and operate a gas plant in Dover.

Thompson v. Ocean City R. Co., 36 A. 1087

A borough has no power to authorize by ordinance a railroad to occupy its streets longitudinally.

The act entitled “An act for the placing of electrical conductors under ground in cities of this state, and for the creation of a state board of commissioners of electrical subways,” approved March 10th, 1892, P.L., p. 78, does not authorize the board to grant a franchise for erecting poles and wires in the streets for the transmission of electricity. The office and effect of that legislation relate to the control and regulation of such franchises derived from other competent authority.

The act of March 10, 1892, P.L. 1892, p. 78, creating the board of commissioners of electrical subways, authorizing them to order the removal of wires from the surface of streets and the placing of them underground, and requiring wires thereafter placed above ground to be sanctioned by the board, does not empower the board to grant to a street railway company the franchise of erecting poles and wires in the street to furnish power to propel cars by electricity.
Indianapolis Cable St. R. Co. v. Citizens' St. R. Co., 24 N.E. 1054
Ind., 1890
A grant made by the commonwealth, or by a municipal corporation under authority from the commonwealth, is
to be taken most strongly against the grantee, and nothing is to be taken by implication against the public except
what necessarily flows from the nature of the terms of the grant.Copr. (C) West 2008 No Claim to Orig. U.S.
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[Cited NaN times for this legal issue]
Indianapolis Cable St. R. Co. v. Citizens' St. R. Co., 24 N.E. 1054
Ind., 1890
Grants of franchises by public corporations to individuals or private corporations are to be strictly construed,
and no exclusive privilege passes unless it be plainly conferred by express words or necessary implication.Copr.
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[Cited NaN times for this legal issue]
Lamar v. McDaniel, 3 S.E. 409
Ga., 1887
Under the act of March 19, 1869, entitled an act to authorize improvements to be made on the reserve at the In-
dian Spring, to protect the same from trespass, and for other purposes therein mentioned, the agent of the State
was not compelled to go beyond the boundaries of the reserve to open and keep in repair the roads and paths
between the boundaries and the public highway for the accommodation of those visiting the spring, nor was he
compelled to erect bridges outside of the reserve to facilitate access to the spring. He had the privilege of doing
this, but it was optional with him to exercise that privilege or not. It was, therefore, error to refuse to charge this
principle and to charge to the contrary.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
State v. Mayor of Newark, 8 A. 128
N.J.Sup., 1887
Authority on the part of a municipality to grant to any person, natural or artificial, a right to erect telegraph or
telephone poles, etc., in the public streets, can only be derived from the legislature by express grant or by neces-
sary implication from powers expressly granted.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Dermott v. State, 1 N.E. 242
N.Y., 1885
The rule that a grant of the sovereign must be construed strictly against the grantee will be strictly applied even
where the grant has been made upon a good consideration, where such grant relates to the jus publici, such as
the supervision of public highways and the control of navigable waters.Copr. (C) West 2008 No Claim to Orig.
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[Hackett v. Multnomah Ry. Co., 6 P. 659
Or., 1885
A corporation may be a joint owner of a ferry where not inconsistent with its constitution, and as such, entitled
to share in its earnings, and to that end may have an accounting.Copr. (C) West 2008 No Claim to Orig. U.S.
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Franchises in this state have always been granted with a view to subserve the public, and are deemed public trusts, to be regulated and managed by the Legislature through its different agents.

In a pecuniary sense, the value of franchises may be as various as the objects for which they exist, and the methods by which they are employed, and may change with every moment of time; but that franchises are property, and are to be taxed in some method in proportion to value, is a part of the paramount law of this State.

Franchises and corporate rights granted indirectly by the state through general laws for such purposes are the same in effect as if the power conferring such franchises and rights had been exercised directly by the state itself.

When there is even serious doubt in respect to the interpretation of a law conferring franchises on a corporation or person, it should be construed against the party claiming the privilege.

Any ambiguity in the terms of a grant of a franchise must be construed against the grantees and in favor of the public, and nothing passes by implication.

The grant by one state of a ferry franchise over a river which is the boundary between it and another state is valid, and it is not necessary to its validity that there be concurrent action by both states, nor that the grantee have
the right of landing beyond the state by which the grant is made. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

H [Cited NaN times for this legal issue]
Columbia Delaware Bridge Co. v. Geisse, 38 N.J.L. 39
N.J.Sup., 1875
The legislative grant of a ferry franchise is valid, although the grantee has not title to the landing places which are named as the termini of the ferry. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
City of Elk Point v. Vaughn, 46 N.W. 577
Dakota.Terr., 1875
The act of Congress, approved March 2, 1867, which provides that the Legislative Assemblies of the several Territories shall not grant private charters or especial privileges, has no application to municipal corporations. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

H [Cited NaN times for this legal issue]
Union Pac. R.R. v. U.S., 10 Ct.Cl. 548
Ct.Cl., 1874
The magnitude of the consideration, political or financial, which may operate upon the legislative mind as an inducement for grants and franchises conferred by statute, does not change the character of the legislation, nor vary the rule of construction by which the rights of the grantee must be measured. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
West End and Atlanta Street R. Co. v. Atlanta Street R. Co., 49 Ga. 151
Ga., 1873
It is a well established rule of law that an exclusive grant in derogation of common rights, as well as in all cases in which exclusive rights are claimed under a legislative grant to a corporation, that such grant should be strictly construed, and that nothing is to be intended beyond the express words contained in it. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
Lake v. Virginia & T.R. Co., 7 Nev. 294
Nev., 1872
Any ambiguity in the terms of a grant of a franchise must be construed against the grantees and in favor of the public, and nothing passes by implication. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
Montgomery v. Inhabitants of City of Trenton, 36 N.J.L. 79
N.J.Sup., 1872
Under the general power to regulate streets, the common council of a city cannot license an individual to lay a railroad track across a public street for his own private use. Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

C [Cited NaN times for this legal issue]
Chapin v. Crusen, 31 Wis. 209

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A statute conferring a franchise is not to be construed as a contract on the part of the state, unless it shows by its terms that such was the intent of the legislature.

[Cited NaN times for this legal issue]
Powell v. Maguire, 43 Cal. 11
Cal., 1872
When the legislature grants a franchise to a particular person, his associates and assigns, it delegates to him the right to select the persons thereafter to be associated with him in the enterprise.

[Cited NaN times for this legal issue]
Britton v. Blake, 35 N.J.L. 208
N.J.Sup., 1871
The sovereign power may resume the grant of a franchise before it has been accepted, and rights acquired under it.

[Cited NaN times for this legal issue]
Schierhold v. North Beach and Mission R. Co., 40 Cal. 447
Cal., 1871
The fact that a party is a corporation, with the right of exercising corporate powers, does not, of itself, establish its right to a special franchise.

[Cited NaN times for this legal issue]
Bartram v. Central Turnpike Co., 25 Cal. 283
Cal., 1864
Any ambiguity in the terms of a grant of a franchise must be construed against the grantees and in favor of the public, and nothing passes by implication.

[Cited NaN times for this legal issue]
Hartford Bridge Co. v. Union Ferry Co., 29 Conn. 210
Conn., 1860
Any ambiguity in the terms of a grant of a franchise must be construed against the grantees and in favor of the public, and nothing passes by implication.

[Cited NaN times for this legal issue]
Griffing v. Gibb, 11 F. Cas. 33
C.C.N.D.Cal., 1857
A grant to an individual of franchises is to be strictly construed; but a grant to a purchaser must be interpreted according to the ordinary meaning of its language.

[Cited NaN times for this legal issue]
Weld v. Chapman, 2 Clarke 524
Iowa, 1856
The grant of a franchise by the state, cannot extend beyond her own limits.
Mairs v. Gallahue, 9 Gratt. 94
Va., 1852
A decree authorized the construction of a mill dam, which would obstruct a ford. The decree imposed the duty of keeping a ferry boat at the crossing of a public road over the stream. Held, that the duty imposed was not merely personal to the grantee of the privilege, but was a condition and incident of the grant, and attached to it in to whose hands soever it passed.

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C [Cited NaN times for this legal issue] Shorter v. Smith, 9 Ga. 517
Ga., 1851
Any ambiguity in the terms of a grant of a franchise must be construed against the grantees and in favor of the public, and nothing passes by implication.

C [Cited NaN times for this legal issue] Clark v. Wilkie, 35 S.C.L. 259
S.C.App.L., 1850
The acceptance of a grant by Act of the Legislature, must be presumed until the contrary be proved.

Iowa, 1848
Any ambiguity in the terms of a grant of a franchise must be construed against the grantees and in favor of the public, and nothing passes by implication.

C [Cited NaN times for this legal issue] Proprietors of Bridges over Passaic and Hackensack Rivers v. State, 21 N.J.L. 384
N.J., 1848
A grant of franchises for a limited time, after which they revert to the state, is not a lease.

C [Cited NaN times for this legal issue] Mills v. St. Clair County, 2 Gilman 197
Ill., 1845
Any ambiguity in the terms of a grant of a franchise must be construed, against the grantees and in favor of the public, and nothing passes by implication.

C [Cited NaN times for this legal issue] State v. Real Estate Bank, 5 Ark. 595
Ark., 1844
Precedent conditions must be complied with strictly and literally, or a franchise will not vest. Conditions subsequent, which work a forfeiture, are to be construed liberally; but still the grantee is bound to a substantial performance.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
State v. Real Estate Bank, 5 Ark. 595
Ark.,1844
Where the estate has once vested, it is sufficient if the substance of the condition be performed. And if the condition subsequent is impossible to be performed, or performance is prevented by act of God, the grantee is excused.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
State v. Real Estate Bank, 5 Ark. 595
Ark.,1844
Acts granting franchises are contracts, and the estate in such franchises vests upon the same principle as estates in land, being equally a grant of a right or privilege for a valuable consideration.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420
U.S.Mass.,1837
In grants by the public, nothing passes by implication.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

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Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420
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[Cited NaN times for this legal issue]
Young v. Buckingham, 5 Ohio 485
Ohio,1832
The legislature of Ohio may lawfully create the franchise of erecting a toll bridge, it being for the public benefit.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Trustees of Dartmouth College v. Woodward, 17 U.S. 518
U.S.N.H.,1819
A “corporation” is a franchise for a number of persons to be incorporated and exist as a body politic, with a power to maintain perpetual succession and to do corporate acts, and each individual of such a corporation is said to have a franchise or freedom.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

[Cited NaN times for this legal issue]
Trustees of Dartmouth College v. Woodward, 17 U.S. 518
U.S.N.H.,1819
A gift by the crown of incorporeal hereditaments, such as corporate franchises, when executed, is a “grant”.Copr. (C) West 2008 No Claim to Orig. U.S. Govt. Works

When a charter is granted, and the corporation is to be brought into existence by some future acts of the corporators, the franchises or property which the charter grants to the body remain in abeyance until such acts are done; and, when the corporation is brought into life, the franchises instantaneously attach.

A grant of the king, at the suit of the grantee, is to be construed most beneficially for the king and most strictly against the grantee.

An exclusive right to establish and run stage wagons on a certain road was granted by statute to certain individuals for a term of years, and any other person establishing a stage on that route was made liable to a penalty of $500. The grantees, by resolutions adopted by them, divided the whole line, each to keep and run a stage upon the portion assigned to him, and receive the profits. B., one of the grantees, with the consent of two others, ran a stage on the part assigned him, and also on the part assigned to A. In an action by A. against B. to recover the penalty of $500, it was held that the penalty was given to secure the grantees in their privilege against the encroachments; that the defendant, being one of the grantees, was not liable to the penalty; and that the resolutions assigning distinct portions of the road to each proprietor, he to keep a stage thereon, were not a division or partition of the franchise. Whether such franchise is susceptible of partition, so as to give exclusive and independent rights to each grantee in distinct portions of the road, quaere.