SUPREME COURT OF VERMONT

Vermont Transco, LLC v. Town of Vernon

Vermont Transco LLC v. Town of Vernon, 197 Vt. 585 (Vt. 2014) · No. 2013-243 · Decided August 8, 2014

SUMMARY

The Vermont Supreme Court reviewed a property-tax appeal involving the valuation of Vermont Transco’s electrical substations, transmission lines, fiber-optic line, land, and utility easements in the Town of Vernon. The Court held that the state appraiser needed to make more detailed findings regarding the useful lifespan of the equipment used to calculate depreciation and that utility easements could not be included in the taxable valuation. The Court otherwise upheld the rejection of first-year depreciation and declined to reach an unpreserved claim that the Iowa Curve depreciation method was required.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Crawford, J.; Reiber, C.J.; Dooley, J.; Skoglund, J.; Robinson, J.
JURISDICTION	Vermont
DECIDED	August 8, 2014
DOCKET	2013-243
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a decision of the Vermont Property Valuation and Review Division state appraiser setting the 2011 listed value of Vermont Transco's utility property in the Town of Vernon at approximately $92 million.
STANDARD OF REVIEW	The Supreme Court will not disturb the state appraiser's factual findings unless clearly erroneous; legal conclusions are reviewed nondeferentially and plenarily.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion; precedential.
PARTIES	Vermont Transco LLC v. Town of Vernon

TOPICS

property tax · tax · administrative law · appellate procedure · standard of review

PRACTICE AREAS

property tax | municipal law | administrative law | appellate procedure

QUESTIONS PRESENTED

1. Whether the state appraiser was required as a matter of law to use the Iowa Curve depreciation method based on prior Vermont decisions.
2. Whether the state appraiser made sufficiently detailed findings concerning the lifespans of the equipment used to calculate depreciation.
3. Whether the state appraiser abused its discretion by declining to allow first-year depreciation for equipment acquired during 2010.
4. Whether the value of utility easements could be included in the municipal property-tax valuation.

HOLDINGS

1. The court did not reach the merits of the claim that the Iowa Curve method was legally required because Vermont Transco failed to preserve that argument before the state appraiser.
2. A state appraiser must make sufficiently detailed findings concerning the lifespan of property used to calculate depreciation so that the reviewing court can determine whether the findings are supported by the record. The state appraiser's conclusory acceptance of the Town's 65-year useful-life estimate was insufficient.
3. The state appraiser did not abuse its discretion by declining to allow a full year of depreciation for equipment acquired during 2010 and valued as new at the end of that year.
4. Utility easements are not subject to Vermont municipal property taxation and their appraised value may not be included in the grand list valuation absent a statute specifically providing otherwise.

KEY QUOTATIONS

> *"The state appraiser has a duty to make clear findings and state how his decision was reached. A mere recitation of the contentions of the parties is not sufficient to support the judgment."* (¶ 19)

> *"In the absence of a statute singling out utility easements for different treatment, we will continue to follow Village of Lyndonville in excluding easements from the grand list of properties subject to tax."* (¶ 23)

FACTUAL BACKGROUND

The dispute concerned the 2011 valuation of five electrical substations, seven transmission lines, a fiber-optic line, land, and utility easements associated with electric transmission facilities in Vernon. The Town valued the property at approximately $92 million, and the state appraiser adopted the Town's replacement-cost-new, straight-line-depreciation methodology. The parties presented conflicting evidence concerning the appropriate depreciation method and the useful or economic lifespans of the equipment, while the Town also sought to include approximately $277,100 attributed to utility easements.

PROCEDURAL HISTORY

The Town listers valued the property at $92,023,693, and the Town Board of Civil Authority upheld that valuation. Vermont Transco appealed to the state appraiser, who in May 2013 set the total value at $92,023,700 using replacement cost new depreciated on a straight-line basis and included utility easements in the valuation. Vermont Transco appealed to the Supreme Court of Vermont, which reversed and remanded for further findings concerning property lifespans and held that easements should not have been included in the grand-list valuation.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further findings concerning the lifespans of the equipment to be used in calculating depreciation, and for further proceedings consistent with the opinion, including exclusion of the value of utility easements from the taxable valuation.

CASES CITED

- Vermont Electric Power Co. v. Town of Vernon, 174 Vt. 471, 807 A.2d 430 (2002)
- Vermont Electric Power Co. v. Town of Cavendish, 158 Vt. 369, 611 A.2d 389 (1992)
- City of Barre v. Town of Orange, 152 Vt. 442, 444, 566 A.2d 951, 952 (1989)
- Vanderminden v. Town of Wells, 2013 VT 49, ¶¶ 8-9, 194 Vt. 96, 75 A.3d 598
- Adams v. Town of West Haven, 147 Vt. 618, 620 n.*, 523 A.2d 1244, 1245 n.* (1987)
- Barnett v. Town of Wolcott, 2009 VT 32, ¶ 5, 185 Vt. 627, 970 A.2d 1281 (mem.)
- State v. Ben-Mont Corp., 163 Vt. 53, 61, 652 A.2d 1004, 1009 (1994)
- In re Green Mountain Power Corp., 2012 VT 89, ¶ 73 n.7, 192 Vt. 429, 60 A.3d 654
- Kachadorian v. Town of Woodstock, 144 Vt. 348, 351, 477 A.2d 965, 967 (1984)
- New England Power Co. v. Town of Barnet, 134 Vt. 498, 505-06, 367 A.2d 1363, 1368 (1976)
- In re 75,629 Shares of Common Stock of Trapp Family Lodge, Inc., 169 Vt. 82, 86, 89, 725 A.2d 927, 931, 933 (1999)
- Amoco Prod. Co. v. Wyo. State Bd. of Equalization, 899 P.2d 855, 859 (Wyo. 1995)
- Vill. of Lyndonville v. Town of Burke, 146 Vt. 435, 438, 505 A.2d 1207, 1209 (1985)
- Littlefield v. Town of Brighton, 151 Vt. 600, 601, 563 A.2d 998, 999 (1989)
- Bowen v. Town of Burke, 153 Vt. 131, 133, 569 A.2d 452, 453 (1989)
- Franks v. Town of Essex, 2013 VT 84, ¶ 14, 87 A.3d 418
- Beach Props., Inc. v. Town of Ferrisburg, 161 Vt. 368, 371, 640 A.2d 50, 51 (1994)
- Saufroy v. Town of Danville, 148 Vt. 624, 625, 538 A.2d 168, 168-69 (1987)
- Spencer v. Town of Danville, 148 Vt. 626, 538 A.2d 169 (1987)
- Gouin v. Town of Halifax, 148 Vt. 524, 535 A.2d 788 (1987)
- Roy v. Town of Barnet, 147 Vt. 551, 522 A.2d 225 (1986)
- Rutland Country Club v. City of Rutland, 140 Vt. 142, 146, 436 A.2d 730, 732 (1981)