SUPREME COURT OF OHIO

Columbus City School District Board of Education v. Testa

130 Ohio St. 3d 344, 2011-Ohio-5534 · No. 2010-1754 · Decided November 1, 2011

SUMMARY

The Supreme Court of Ohio held that property owned for the use and benefit of a state university is not exempt from real property taxation under R.C. 3345.17 merely because rental income from the property supports university purposes. The property itself must be used in a manner that bears an operational relationship to university activities. Because the building was used solely as income-producing commercial and residential rental property, the court reversed the Board of Tax Appeals' decision granting the exemption.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, Chief Justice; Paul E. Pfeifer, Justice; Evelyn Lundberg Stratton, Justice; Terrence O'Donnell, Justice; Lanzinger, Justice; Eileen A. Gallagher?; McGee Brown, Justice
JURISDICTION	Ohio
DECIDED	November 1, 2011
DOCKET	2010-1754
DISPOSITION	reversed
PROCEDURAL POSTURE	The Columbus City School District Board of Education appealed the Board of Tax Appeals' decision affirming the tax commissioner's grant of a real-property-tax exemption to property owned by the State of Ohio for the use and benefit of Ohio State University.
STANDARD OF REVIEW	Under R.C. 5717.04, the court determines whether the Board of Tax Appeals' decision is reasonable and lawful. Factual determinations supported by reliable and probative evidence are affirmed, but statutory construction is reviewed de novo.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Ohio
PARTIES	Columbus City School District Board of Education v. Testa, Tax Commissioner, State of Ohio for the use and benefit of Ohio State University

TOPICS

property tax · tax exempt organizations · statutory interpretation · administrative law · judicial review of agency action

PRACTICE AREAS

State and local taxation · Real property taxation · Administrative law

QUESTIONS PRESENTED

1. Whether income-producing property owned by the state for the use and benefit of a state university qualifies for exemption from real-property taxation under R.C. 3345.17 when the property is used solely to generate rental income that is devoted to university purposes.
2. Whether the property's proximity to Ohio State University and its status as a bequest intended to fund university scholarships independently establish entitlement to the exemption.

HOLDINGS

1. Property qualifies for exemption under R.C. 3345.17 only when the property itself is used, currently or prospectively, in a manner that bears an operational relationship to university activities; using rental income to support the university, standing alone, is insufficient.
2. The property was not entitled to exemption because it had no current or prospective use operationally related to Ohio State University's activities.

KEY QUOTATIONS

> *"Indeed, the principle to be derived from Kinney and Univ. of Cincinnati is that an ancillary use of property that generates income does not defeat exemption as long as the property is used, to some degree, either currently or prospectively, in a way that operationally relates to university activities."* (¶ 27)

> *"Because there is neither a current nor a prospective use of the property operationally related to university activities, OSU's exemption application should have been denied."* (¶ 34)

FACTUAL BACKGROUND

Ohio State University acquired a two-story building through a bequest requiring the property or its proceeds to fund veterinary-medicine fellowships. The building contained four residential rental units and commercial space occupied first by a McDonald's and later by a credit union. OSU used a property-management company to collect rents and maintain the property, and the income was ultimately intended to support a university scholarship fund, but there was no current or prospective use of the property itself operationally related to university activities.

PROCEDURAL HISTORY

Ohio State University applied for a 2004 real-property-tax exemption under R.C. 3345.17 for a building containing residential rental units and commercial space. The tax commissioner granted the exemption, and the

Board of Tax Appeals affirmed that determination. The school board appealed to the Supreme Court of Ohio, which reversed the BTA's decision.

DISPOSITION

reversed

CASES CITED

- State ex rel. Univ. of Cincinnati v. Limbach, 51 Ohio St. 3d 6, 553 N.E.2d 1056 (1990)
- Ohio State Univ. Bd. of Trustees v. Kinney, 5 Ohio St. 3d 173, 449 N.E.2d 1282 (1983)
- Satullo v. Wilkins, 111 Ohio St. 3d 399, 2006-Ohio-5856, 856 N.E.2d 954
- American National Can Co. v. Tracy, 72 Ohio St. 3d 150, 648 N.E.2d 483 (1995)
- Akron Centre Plaza, L.L.C. v. Summit County Board of Revision, 128 Ohio St. 3d 145, 2010-Ohio-5035, 942 N.E.2d 1054
- HIN, L.L.C. v. Cuyahoga County Board of Revision, 124 Ohio St. 3d 481, 2010-Ohio-687, 923 N.E.2d 1144
- State ex rel. Russell v. Thornton, 111 Ohio St. 3d 409, 2006-Ohio-5858, 856 N.E.2d 966
- Anderson/Maltbie Partnership v. Levin, 127 Ohio St. 3d 178, 2010-Ohio-4904, 937 N.E.2d 547
- Ares, Inc. v. Limbach, 51 Ohio St. 3d 102, 554 N.E.2d 1310 (1990)
- H.R. Options, Inc. v. Wilkins, 102 Ohio St. 3d 1214, 2004-Ohio-2085, 807 N.E.2d 363
- A. Schulman, Inc. v. Levin, 116 Ohio St. 3d 105, 2007-Ohio-5585, 876 N.E.2d 928
- Youngstown Metropolitan Housing Authority v. Evatt, 143 Ohio St. 268, 55 N.E.2d 122 (1944)
- Church of God in Northern Ohio, Inc. v. Levin, 124 Ohio St. 3d 36, 2009-Ohio-5939, 918 N.E.2d 981
- Rickenbacker Port Authority v. Limbach, 64 Ohio St. 3d 628, 597 N.E.2d 494 (1992)
