NORTH DAKOTA SUPREME COURT

Grand Forks Homes, Inc. v. Grand Forks Board of County Commissioners

Grand Forks Homes, Inc. v. Grand Forks Bd. of County Comm'rs, 2011 ND 50 · No. Nos. 20100197 & 20100202 · Decided March 22, 2011

SUMMARY

The North Dakota Supreme Court affirmed district court judgments upholding the Grand Forks County Board of Commissioners’ denial of real estate tax abatements sought by nonprofit and related property owners. The Court held that the district court did not abuse its discretion in refusing to remand the matters for consideration of additional hearing transcripts and that substantial evidence supported the Board’s conclusion that the properties were not devoted to charitable purposes under North Dakota law. The Court concluded the Board’s decisions were not arbitrary, capricious, or unreasonable.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Crothers, Justice; Daniel J. Crothers; Mary Muehlen Maring; Carol Ronning Kapsner; Dale V. Sandstrom; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	March 22, 2011
DOCKET	Nos. 20100197 & 20100202
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeals from district court judgments affirming the Grand Forks County Board of Commissioners' denial of applications for abatement of real estate taxes and denying motions for an extension of time and remand for consideration of additional evidence.
STANDARD OF REVIEW	The Supreme Court independently determines the propriety of a local governing body's decision under N.D.C.C. § 28-34-01, using the same very limited scope of review as the district court. The decision must be affirmed unless the local body acted arbitrarily, capriciously, or unreasonably, or substantial evidence does not support it. A district court's decision whether to order additional evidence under N.D.C.C. § 28-34-01(3) is reviewed for abuse of discretion.

PRECEDENTIAL VALUE	published precedential opinion of the North Dakota Supreme Court
PARTIES	Grand Forks Homes, Inc., Continental Homes, Inc., Homestead Place, MDI Limited Partnership #35, Faith & Hope, LP, Terzetto Village, LLC v. Grand Forks Board of County Commissioners

TOPICS

property tax · administrative law · judicial review of agency action · appellate procedure

PRACTICE AREAS

property tax · tax · administrative law · appellate procedure · real estate

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by denying the property owners' motions to remand the cases to the Board to consider transcripts or recordings of City Council hearings as additional evidence.
2. Whether the Board misapplied North Dakota law governing exemptions for institutions of public charity and property used exclusively for charitable or other public purposes.
3. Whether substantial evidence supported the Board's denial of the requested real-estate-tax abatements and whether the Board acted arbitrarily, capriciously, or unreasonably.

HOLDINGS

1. The district court did not abuse its discretion in denying the motions to remand for consideration of the City Council hearing transcripts or recordings because the materials were not material evidence necessary to review the Board's decision and the owners had an opportunity to present evidence directly to the Board.
2. Restricting property to use by low-income, elderly, or disabled persons does not alone qualify the property for North Dakota's charitable tax exemption. The claimant must show that the property is actually devoted to charitable purposes and that the owner is subject to the possibility of providing assistance or foregoing action when other property owners would not be required to do so.
3. The Board did not misapply North Dakota law and did not act arbitrarily, capriciously, or unreasonably because substantial evidence supported its denial of the applications for real-estate-tax abatements.

KEY QUOTATIONS

> *"The [Commission's] decision must be affirmed unless the local body acted arbitrarily, capriciously, or unreasonably, or there is not substantial evidence supporting the decision."* (¶ 12)

> *"The ownership of the property in question by an institution of public charity does not, by that fact alone, exempt the property from taxation."* (¶ 18)

> *"We do not hold that governmental subsidies automatically disqualify a property owner from successfully claiming the charitable tax exemption."* (¶ 23)

FACTUAL BACKGROUND

The appellants owned or operated apartment complexes and residential developments intended primarily for low-income families, elderly persons, or persons with physical, mental, or developmental disabilities. The rental properties received governmental rental subsidies and rents that together equaled or exceeded fair-market rents, competed with for-profit housing, and generally evicted tenants who failed to pay rent. Terzetto Village owned residential lots and homes made available on the open market, including sales to purchasers who could exceed low- to moderate-income levels. The owners sought real-estate-tax abatements based on charitable-use exemptions, but the local governing bodies found that the properties did not provide direct charitable benefits or uncompensated services.

PROCEDURAL HISTORY

The property owners sought abatements of 2006, 2007, and 2008 real estate taxes, claiming charitable-use exemptions. The Grand Forks City Council recommended denial, and the County Board adopted the recommendations based on the record before the Council. The district court denied the owners' motions to extend time or remand for additional evidence and affirmed the Board's decisions. The North Dakota Supreme Court consolidated the appeals and affirmed.

DISPOSITION

affirmed

CASES CITED

- Grand Forks Hous. Auth. v. Grand Forks Bd. of County Comm'rs, 2010 ND 245
- In re Pederson Trust, 2008 ND 210, ¶ 12, 757 N.W.2d 740
- Hagerott v. Morton County Bd. of Comm'rs, 2010 ND 32, ¶ 7, 778 N.W.2d 813
- Gowan v. Ward County Comm'n, 2009 ND 72, ¶ 5, 764 N.W.2d 425
- Hector v. City of Fargo, 2010 ND 168, ¶ 5, 788 N.W.2d 354
- North Dakota Soc'y for Crippled Children and Adults v. Murphy, 94 N.W.2d 343 (N.D. 1959)
- Y.M.C.A. of North Dakota State Univ. v. Board of County Comm'rs, 198 N.W.2d 241 (N.D. 1972)
- Evangelical Lutheran Good Samaritan Soc'y v. Board of County Comm'rs, 219 N.W.2d 900 (N.D. 1974)
- Riverview Place, Inc. v. Cass County, 448 N.W.2d 635 (N.D. 1989)