SUPREME COURT OF MINNESOTA

Berry & Co. v. County of Hennepin

806 N.W.2d 31 (Minn. 2011) · Decided August 24, 2011

SUMMARY

The Minnesota Supreme Court reviewed a property-tax valuation dispute involving commercial property in Wayzata, Minnesota. The court upheld the tax court's determination that redevelopment was the property's highest and best use and affirmed the County's expert valuation for the 2007 and 2008 assessment years. The court concluded that the tax court's findings and valuation were supported by the evidence and were not clearly erroneous.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Gildea, Chief Justice
JURISDICTION	Minnesota
DECIDED	August 24, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Berry appealed from a Minnesota Tax Court decision determining the property-tax values of its commercial property for the 2007 and 2008 assessment years.
STANDARD OF REVIEW	The Supreme Court will not disturb the Tax Court's property valuation unless it is clearly erroneous, meaning it is not reasonably supported by the evidence as a whole. The Court defers to the Tax Court unless the property was clearly overvalued or undervalued or the Tax Court completely failed to explain its reasoning.
PRECEDENTIAL VALUE	precedential
PARTIES	Berry & Co., Inc. v. County of Hennepin

TOPICS

property tax · tax court procedure · zoning · real estate · municipal law

PRACTICE AREAS

property tax · real estate valuation · zoning and land use · tax court appeals

QUESTIONS PRESENTED

1. Whether the Tax Court clearly erred in determining that redevelopment was the highest and best use of the property for the 2007 assessment year despite conditions associated with the planned unit development.
2. Whether the Tax Court clearly erred in determining that redevelopment was the highest and best use for the 2008 assessment year when no approved planned unit development was in effect at the time of assessment.
3. Whether the Tax Court clearly erred by adopting the County's expert appraisal and valuing the property at $3,881,000 for 2007 and $4,153,000 for 2008.

HOLDINGS

1. The Tax Court did not clearly err in determining that redevelopment was the property's highest and best use for 2007 because an approved planned unit development permitted construction of a three-story building on the property during that assessment year.
2. The Tax Court did not err in determining that redevelopment was the property's highest and best use for 2008 even though no approved planned unit development was then in effect, because the evidence showed a reasonable probability that a planned unit development allowing redevelopment would be approved in the near future.
3. The Tax Court did not clearly err in adopting the County expert's appraisal and valuing the property at $3,881,000 for 2007 and $4,153,000 for 2008.

KEY QUOTATIONS

> *"We will not disturb the tax court's valuation of property for tax purposes unless the tax court's decision is clearly erroneous, which means the decision is not reasonably supported by the evidence as a whole."* (806 N.W.2d at 33)

> *"Highest and best use of property is defined as "[t]he reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible and that results in the highest value.""* (806 N.W.2d at 34)

> *"The tax court may consider "[e]vidence of value for uses prohibited by an ordinance" when there is "evidence showing a reasonable probability" that a planned unit development allowing for deviation from existing zoning requirements would be granted in the "near future.""* (806 N.W.2d at 35)

FACTUAL BACKGROUND

Berry owned a 53,227-square-foot commercial property in Wayzata's Limited Central Business District. The existing buildings added no value, and the parties agreed that the market-sales-comparison approach was the proper valuation method. Berry's expert viewed interim occupancy followed by redevelopment as the highest and best use and valued the property below the County's appraisal. The Tax Court found redevelopment to be the highest and best use and adopted the County expert's higher valuations for both assessment years.

PROCEDURAL HISTORY

Berry challenged Hennepin County's assessments in the Minnesota Tax Court after the County assessed the property at $2,540,000 for 2007 and $2,650,000 for 2008. After a trial featuring expert appraisal testimony from both parties, the Tax Court determined that redevelopment was the property's highest and best use and valued it at $3,881,000 for 2007 and $4,153,000 for 2008. The Minnesota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Carson Pirie Scott Co. (Ridgedale) v. Cnty. of Hennepin, 576 N.W.2d 445, 447 (Minn. 1998)
- Eden Prairie Mall, L.L.C. v. Cnty. of Hennepin, 797 N.W.2d 186, 193 (Minn. 2011)
- Harold Chevrolet, Inc. v. Cnty. of Hennepin, 526 N.W.2d 54, 59 (Minn. 1995)
- Montgomery Ward & Co. v. Cnty. of Hennepin, 482 N.W.2d 785, 791 (Minn. 1992)
- EOP-Nicollet Mall, L.L.C. v. Cnty. of Hennepin, 723 N.W.2d 270, 284 (Minn. 2006)
- Kmart Corp. v. Cnty. of Becker, 709 N.W.2d 238, 241 (Minn. 2006)
- Am. Express Fin. Advisors, Inc. v. Cnty. of Carver, 573 N.W.2d 651, 659 (Minn. 1998)
- Hedberg & Sons Co. v. Cnty. of Hennepin, 305 Minn. 80, 92-93, 232 N.W.2d 743, 750-51 (1975)

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