OREGON SUPREME COURT

Seneca Sustainable Energy, LLC v. Dep't of Revenue, 363 Or. 782

429 P.3d 360 (2018) · Decided November 8, 2018

SUMMARY

The Oregon Supreme Court affirmed the Tax Court's jurisdiction to hear Seneca Sustainable Energy LLC's challenges to the Department of Revenue's real market valuations of its cogeneration facility for the 2012-13 and 2013-14 tax years. The court held that Seneca was a taxpayer, was aggrieved and affected by the valuation determinations, and had standing despite an enterprise-zone exemption covering part of its property. The court also affirmed the Tax Court's substantially lower valuations, concluding that the Department's appraisal was flawed and that the power purchase agreement did not establish the property's real market value.

CASE DETAILS

COURT	Oregon Supreme Court
WRITING FOR THE COURT	Nelson, J.
JURISDICTION	Oregon
DECIDED	November 8, 2018
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Department of Revenue directly appealed the Oregon Tax Court's rulings denying dismissal of Seneca's challenges to the Department's real-market-value determinations and affirming lower valuations for Seneca's industrial property for the 2012-13 and 2013-14 tax years.
STANDARD OF REVIEW	Under ORS 305.445, legal determinations are reviewed for errors of law and factual findings are reviewed for lack of substantial evidence in the record.
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential
PARTIES	Department of Revenue v. Seneca Sustainable Energy, LLC

TOPICS

property tax · tax court procedure · statutory interpretation · tax · administrative law

PRACTICE AREAS

property tax | tax administration | administrative law | statutory interpretation

QUESTIONS PRESENTED

1. Whether the Oregon Tax Court had jurisdiction over Seneca's challenges to the Department's real-market-value determinations and the related assessment-roll notations.
2. Whether Seneca was a taxpayer and was aggrieved and affected, or directly affected, such that it had standing to pursue the valuation challenges.
3. Whether the Tax Court properly determined the real market value of Seneca's industrial property without relying on premium, above-market terms in Seneca's power-purchase agreement.
4. Whether the Tax Court's real-market-value determinations for the 2012-13 and 2013-14 tax years were supported by law and substantial evidence.

HOLDINGS

1. A challenge to the Department's determination of the real market value of state-appraised industrial property, and a related request to correct the assessment or tax rolls, arises under Oregon's tax laws and falls within the Oregon Tax Court's jurisdiction under ORS 305.403 and ORS 305.410.
2. An entity remains a taxpayer for purposes of ORS 305.403 and ORS 305.410 even when part of its property is temporarily exempt from taxation, and Seneca was aggrieved and affected by the Department's valuation because the valuation increased taxes on its nonexempt property and contributed to an excessive public-benefit contribution.
3. When valuing industrial property under the income approach, the court may not include value attributable to contractual rates or rights that produce returns materially above those obtainable in the market as of the assessment date, because doing so would improperly value nontaxable intangible contract rights rather than the taxable property.
4. The highest-and-best-use requirement concerns the reasonably probable, legally permissible, physically possible, financially feasible, and maximally productive use of the property; it does not require valuing the property based on the maximum revenue obtainable under a particular above-market contract.

KEY QUOTATIONS

> *"Based on the foregoing, we hold that Seneca was a taxpayer for purposes of ORS 305.403 and ORS 305.410 for tax years 2012-13 and 2013-14, notwithstanding that it was exempt from taxation on part of its property during that period."* (363 Or. 367)

> *"For those reasons, we conclude that Seneca was "aggrieved and affected" by the department's real market value, and it had standing to challenge that determination under ORS 305.403 and ORS 305.410."* (363 Or. 368)

> *"Because the rates set out in the power purchase agreement are significantly above the market rates, the power purchase agreement simply does not reflect "the income Seneca's cogeneration facility may reasonably be expected to produce" on the assessment date and thereafter."* (363 Or. 373)

> *"The judgment of the Tax Court is affirmed."* (363 Or. 375)

FACTUAL BACKGROUND

Seneca owned and operated a biomass cogeneration facility in an Oregon enterprise zone. The Department determined the real market value of Seneca's industrial property at $62,065,350 for 2012-13 and used its valuation for the assessment-roll notation required by the enterprise-zone statutes; Seneca paid property taxes on the nonexempt portion of the property and incurred public-benefit contributions calculated using the valuation. Seneca challenged the valuations, arguing that the Department's appraisal improperly relied on above-market terms in a power-purchase agreement and included intangible business value.

PROCEDURAL HISTORY

Seneca challenged the Department's valuation of its biomass cogeneration facility and the notation of that valuation on the assessment rolls. The Tax Court held that it had jurisdiction over the valuation and assessment-roll claims, that Seneca had standing, and that the Department's valuations were incorrect; it set the property's real market value at $38.2 million as of January 1, 2012, and $19.1 million as of January 1, 2013. The Department appealed directly to the Oregon Supreme Court, which affirmed.

DISPOSITION

affirmed

CASES CITED

- Sanok v. Grimes, 294 Or. 684, 701, 662 P.2d 693, 703 (1983)
- NW Medical Lab. v. Good Samaritan Hospital, 309 Or. 262, 268-69, 786 P.2d 718 (1990)
- Ellison v. Dept. of Rev., 362 Or. 148, 152, 404 P.3d 933 (2017)
- Burlington Northern, Inc. v. Dept. of Rev., 291 Or. 729, 737, 635 P.2d 347 (1981)
- Deschutes County Assessor v. Broken Top Club, LLC, 15 OTR 231, 237 (2000)
- Boise Cascade Corp. v. Dept. of Rev., 12 OTR 263, 268 (1991)
- Hewlett-Packard Co. v. Benton County Assessor, 357 Or. 598, 602-03, 356 P.3d 70 (2015)
- STC Submarine, Inc. v. Dept. of Rev., 320 Or. 589, 592 n 5, 890 P.2d 1370 (1995)
- Swan Lake Mldg. Co. v. Dept. of Rev., 257 Or. 622, 625, 627-28, 478 P.2d 393 (1970)
- Truitt Brothers, Inc. v. Dept. of Rev., 302 Or. 603, 609, 732 P.2d 497 (1987)
- State ex rel. Medf. Pear Co. v. Fowler, 207 Or. 182, 191, 295 P.2d 167 (1956)