SUPREME COURT OF MICHIGAN

Title Office, Inc. v. Van Buren County Treasurer, 469 Mich. 516

676 N.W.2d 207 (2004) · No. 121077, 121078, 121177, 121178 · Decided March 9, 2004

SUMMARY

The Michigan Supreme Court held that electronic copies of property tax records requested from a county treasurer are subject to the fee schedule in the Transcripts and Abstracts of Records Act, rather than the Freedom of Information Act. The court concluded that an electronic reproduction qualifies as a "transcript" under the statute and overruled conflicting precedent from the Michigan Court of Appeals.

CASE DETAILS

COURT	Supreme Court of Michigan
WRITING FOR THE COURT	Michael F. Cavanagh; Maura D. Corrigan; Robert P. Young, Jr.; Clifford W. Taylor; William H. Rehnquist; Stephen J. Markman; Elizabeth A. Weaver
JURISDICTION	Michigan
DECIDED	March 9, 2004
DOCKET	121077, 121078, 121177, 121178
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from a circuit court order granting plaintiff's motion for summary disposition in consolidated mandamus actions concerning the fees counties could charge for electronic copies of property-tax records.
STANDARD OF REVIEW	De novo review of the grant or denial of summary disposition and of questions of statutory interpretation.
PRECEDENTIAL VALUE	Published Michigan Supreme Court opinion; binding precedent in Michigan.
PARTIES	Van Buren County Treasurer, Allegan County Treasurer, Branch County Treasurer, Hillsdale County Treasurer, Ionia County Treasurer, Jackson County Treasurer, Kalamazoo County Treasurer, Livingston County Treasurer v. Title Office, Inc.

TOPICS

statutory interpretation plain meaning rule municipal law real estate

PRACTICE AREAS

statutory interpretation municipal law public records real estate records

QUESTIONS PRESENTED

1. Whether fees for electronic copies of county treasurers' property-tax records are governed by the Freedom of Information Act or the Transcripts and Abstracts of Records Act.
2. Whether an electronic copy of a property-tax record constitutes a "transcript" under the Transcripts and Abstracts of Records Act.
3. Whether Oakland Co. Treasurer v. Title Office, Inc. should be followed.

HOLDINGS

1. The TARA fee schedule, rather than the FOIA fee provisions, governs fees for copies of property-tax records because TARA specifically provides the amount of the fee for copies of records on file in a county treasurer's office.
2. An electronic copy of property-tax records is a "transcript" within the meaning of TARA, and its reproduction fees are governed by TARA.
3. Oakland Co. Treasurer v. Title Office, Inc. is overruled because it improperly limited TARA to paper or written copies.

KEY QUOTATIONS

> *“The unambiguous language of both statutes leads us to conclude that the fees are to be computed according to the fee schedule provided in TARA.”* (676 N.W.2d at 207)

> *“"Transcript," as used in the statute, is a much broader term, intended to apply to any reproduction of a record on file in the treasurer's office.”* (676 N.W.2d at 211)

> *“An electronic copy of property tax records qualifies as a "transcript" for purposes of TARA.”* (676 N.W.2d at 211)

FACTUAL BACKGROUND

On February 27, 1998, Title Office requested electronic copies of Van Buren County's 1996 and 1997 property-tax and delinquent-tax records. The county treasurer calculated the copying fee under the Transcripts and Abstracts of Records Act and estimated the charge at $26,700. Title Office made similar requests in other counties and challenged the use of the TARA fee schedule rather than the Freedom of Information Act schedule.

PROCEDURAL HISTORY

Title Office sought mandamus relief in several counties, asking the courts to require the counties to calculate copying fees under the Freedom of Information Act rather than the Transcripts and Abstracts of Records Act.

The circuit court granted plaintiff's motion for summary disposition. The Court of Appeals affirmed, relying on Oakland Co. Treasurer v. Title Office, Inc. The Michigan Supreme Court consolidated the defendants' applications for leave to appeal, granted leave, reversed the Court of Appeals, and overruled Oakland Co. Treasurer.

DISPOSITION

reversed

CASES CITED

- American Federation of State, County and Municipal Employees v. Detroit, 468 Mich. 388, 398, 662 N.W.2d 695 (2003)
- Omelenchuk v. City of Warren, 466 Mich. 524, 527, 647 N.W.2d 493 (2002)
- In re MCI, 460 Mich. 396, 411, 596 N.W.2d 164 (1999)
- Stanton v. Battle Creek, 466 Mich. 611, 617, 647 N.W.2d 508 (2002)
- Oakland Co. Treasurer v. Title Office, Inc., 245 Mich. App. 196, 627 N.W.2d 317 (2001)