SUPREME COURT OF OHIO

The Chapel v. Testa

129 Ohio St. 3d 21, 2011-Ohio-545 (2011) · No. 2010-0562 · Decided February 10, 2011

SUMMARY

The Supreme Court of Ohio held that land owned by a religious institution and made available to the public without charge for recreational use qualifies for a charitable-use exemption under R.C. 5709.12(B). The court concluded that religious ownership or motivation does not defeat the exemption when the property's use is otherwise charitable, reversed the Board of Tax Appeals' decision, and remanded for further proceedings concerning the exemption and the recreational acreage.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; O'Connor, C.J.; Pfeifer, J.; Lundberg Stratton, J.; O'Donnell, J.; Lanzinger, J.; Cupp, J.; McGee Brown, J.
JURISDICTION	Ohio
DECIDED	February 10, 2011
DOCKET	2010-0562
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Chapel appealed the Board of Tax Appeals' decision affirming the tax commissioner's denial of a charitable-use real-property-tax exemption for recreational acreage owned by The Chapel.
STANDARD OF REVIEW	Under R.C. 5717.04, the court reviews a Board of Tax Appeals decision to determine whether it is reasonable and lawful. Factual determinations are affirmed if supported by reliable and probative evidence, while legal questions are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The Chapel v. Testa, Tax Commissioner

TOPICS

property tax · tax · statutory interpretation · appellate procedure · standard of review

PRACTICE AREAS

property tax | tax exemption | real estate | appellate procedure

QUESTIONS PRESENTED

1. Whether recreational acreage owned by a religious institution and made available to the general public without charge constitutes an exclusively charitable use exempt from taxation under R.C. 5709.12(B).
2. Whether the recreational use was ineligible for charitable-use exemption because it was ancillary to the church's public-worship activities or motivated by the church's religious mission.
3. Whether the tax commissioner waived reliance on the argument that the recreational use did not exist on the applicable tax-lien date by failing to raise that issue in the final determination and before the Board of Tax Appeals.
4. Whether the matter should be remanded for the Board of Tax Appeals to determine the precise boundaries and amount of recreational acreage eligible for exemption.

HOLDINGS

1. Property owned by an institution and made accessible to the general public without charge for recreational use is used for a charitable purpose and is exempt under R.C. 5709.12(B), provided the statutory requirements are otherwise satisfied.
2. Neither ownership by a religious institution nor religious motivations connected with an otherwise charitable use defeats an exemption under R.C. 5709.12(B).
3. The tax commissioner waived reliance on the argument that the recreational use began after the applicable tax-lien date by failing to raise the issue in the final determination or in the commissioner's brief before the Board of Tax Appeals.
4. The recreational acreage, stated by the Board of Tax Appeals to total 18.6795 acres, is exempt based on public recreational use, and the matter must be remanded for the Board to effectuate the exemption and delineate the exempt acreage.

KEY QUOTATIONS

> *"Under R.C. 5709.12(B), property owned by an institution that is accessible without charge to the public for recreational use is exempt"* (129 Ohio St. 3d at 24; ¶ 10)

> *"Quite simply, the fact that a church is the institution that owns property and that puts it to an established charitable use is usually irrelevant to a claim for exemption under R.C. 5709.12(B)."* (129 Ohio St. 3d at 26; ¶ 18)

> *"Because the denial of the exemption claim by the commissioner and the BTA rests upon legal error, the BTA's decision must be reversed."* (129 Ohio St. 3d at 29; ¶ 23)

FACTUAL BACKGROUND

The Chapel, a nonprofit religious corporation, acquired approximately 79.8 acres in Green, Ohio, and built a church and recreational facilities, including softball diamonds, a soccer field, and a jogging path. The facilities were open without charge to the general public and were used by community sports leagues, businesses, city programs, and thousands of people, most of whom were not church members. The Chapel paid the costs of developing and maintaining the property and did not derive income from its recreational use.

PROCEDURAL HISTORY

The Chapel applied for exemptions for property associated with its church and recreational facilities. The tax commissioner granted an exemption for the house-of-public-worship portion but denied an exemption for the recreational acreage under R.C. 5709.12(B). The Board of Tax Appeals affirmed the denial and modified the boundary between the taxable and exempt portions. The Supreme Court of Ohio reversed and remanded.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The Board of Tax Appeals must grant the exemption for the recreational acreage as of the applicable tax-lien date, determine or clarify the amount of remission pertaining to that acreage, and delineate the exempt 18.6795 acres as necessary.

CASES CITED

- Satullo v. Wilkins, 111 Ohio St. 3d 399, 856 N.E.2d 954 (2006)
- American National Can Co. v. Tracy, 72 Ohio St. 3d 150, 648 N.E.2d 483 (1995)
- Gahanna-Jefferson Local School Dist. Bd. of Edn. v. Zaino, 93 Ohio St. 3d 231, 754 N.E.2d 789 (2001)
- Akron Centre Plaza, L.L.C. v. Summit Cty. Bd. of Revision, 128 Ohio St. 3d 145, 942 N.E.2d 1042 (2010)
- Highland Park Owners, Inc. v. Tracy, 71 Ohio St. 3d 405, 644 N.E.2d 284 (1994)
- Faith Fellowship Ministries, Inc. v. Limbach, 32 Ohio St. 3d 432, 513 N.E.2d 1340 (1987)
- Moraine Hts. Baptist Church v. Kinney, 12 Ohio St. 3d 134, 465 N.E.2d 1281 (1984)
- True Christianity Evangelism v. Tracy, 87 Ohio St. 3d 48, 716 N.E.2d 1154 (1999)
- White Cross Hosp. Assn. v. Bd. of Tax Appeals, 38 Ohio St. 2d 199, 311 N.E.2d 862 (1974)
- True Christianity Evangelism v. Tracy, 91 Ohio St. 3d 117, 742 N.E.2d 638 (2001)
- Herb Soc. of Am., Inc. v. Tracy, 71 Ohio St. 3d 374, 643 N.E.2d 1132 (1994)
- First Baptist Church of Milford, Inc. v. Wilkins, 110 Ohio St. 3d 496, 854 N.E.2d 494 (2006)
- NBC-USA Hous., Inc.—Five v. Levin, 125 Ohio St. 3d 394, 928 N.E.2d 715 (2010)
- Church of God in N. Ohio v. Levin, 124 Ohio St. 3d 36, 918 N.E.2d 981 (2009)
- Key Servs. Corp. v. Zaino, 95 Ohio St. 3d 11, 764 N.E.2d 1015 (2002)
- Anderson/Maltbie Partnership v. Levin, 127 Ohio St. 3d 178, 937 N.E.2d 547 (2010)
- HealthSouth Corp. v. Levin, 121 Ohio St. 3d 282, 903 N.E.2d 1179 (2009)
- Sylvania Church of God v. Levin, 118 Ohio St. 3d 260, 888 N.E.2d 408 (2008)
- Performing Arts School of Metro. Toledo, Inc. v. Wilkins, 104 Ohio St. 3d 284, 819 N.E.2d 649 (2004)