SUPREME COURT OF OHIO

Fairfield Twp. Bd. of Trustees v. Testa

2018-Ohio-2381 (Ohio 2018) · No. 2016-0995 · Decided June 21, 2018

SUMMARY

The Supreme Court of Ohio affirmed the Board of Tax Appeals' decision upholding a house-of-public-worship exemption for property subject to an earlier tax-increment-financing agreement. The court held that R.C. 5709.911 subordinated the TIF exemption and eliminated the obligation to make service payments because the township failed to take statutory steps preserving the TIF exemption's priority. The court also held that the township lacked standing to assert an as-applied constitutional challenge based on impairment of contractual obligations.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, Chief Justice; Terrence O'Donnell, Justice; Judith L. French, Justice; Patrick F. Fischer, Justice; Pat DeWine, Justice; Mary DeGenaro, Justice; R. Patrick Kennedy, Justice
JURISDICTION	Ohio
DECIDED	June 21, 2018
DOCKET	2016-0995
DISPOSITION	affirmed
PROCEDURAL POSTURE	Fairfield Township appealed the Board of Tax Appeals' affirmance of the Tax Commissioner's denial of the township's complaint against a property's house-of-public-worship tax exemption.
STANDARD OF REVIEW	The Supreme Court reviewed the BTA's decision based on the record and the parties' stipulations, applying the governing exemption statutes and reviewing the legal issues de novo.
PRECEDENTIAL VALUE	published
PARTIES	Fairfield Township Board of Trustees v. Testa, Tax Commissioner, Tri-City Church of God, Tax Commissioner

TOPICS

property tax · tax · statutory interpretation · municipal law · constitutional law

PRACTICE AREAS

state and local taxation | property tax | municipal law | constitutional law

QUESTIONS PRESENTED

1. Whether R.C. 5709.911 and the uncodified provisions of Sub.H.B. No. 427 subordinated the preexisting TIF exemption to the property's later house-of-public-worship exemption.
2. Whether the TIF service-payment covenant remained enforceable notwithstanding the statutory priority of the house-of-public-worship exemption.
3. Whether Fairfield Township had standing to assert an as-applied challenge under the Ohio Constitution's contract-impairment prohibition.

HOLDINGS

1. For a TIF exemption approved before the effective date of R.C. 5709.911, the uncodified provisions of Sub.H.B. No. 427 subject the exemption to the limitations in R.C. 5709.911(A), including subordination to another statutory exemption. Because Fairfield Township failed to preserve the TIF exemption's priority, the house-of-public-worship exemption had priority.
2. R.C. 5709.911 bars enforcement of the real covenant requiring service payments because the statute makes the house-of-public-worship exemption controlling and eliminates the service-payment obligation during that exemption.
3. The township lacked standing to challenge R.C. 5709.911 under the Ohio Constitution's contract-impairment prohibition because its injury resulted from its failure to take the statutory steps available to preserve its rights, rather than from unconstitutional operation of the statute.

KEY QUOTATIONS

> *"Applying this doctrine to the present appeal is straightforward: by dictating that TIF exemptions be subordinated to other exemptions, and by invalidating the requirement that service payments be made, R.C. 5709.911 bars the enforcement of the real covenant with respect to service payments."* (¶ 22)

> *"The township in this appeal was injured by its own failure to take the prescribed step to preserve its rights under the very law it challenges, and the township did not establish why it could not have done so."* (¶ 30)

FACTUAL BACKGROUND

Fairfield Township entered into a tax-increment-financing agreement requiring service payments in lieu of taxes and recording those obligations as covenants running with the land. The property was later conveyed to Tri-City Church of God, which applied for and received a property-tax exemption as a house of public worship under R.C. 5709.07(A)(2). The township had not taken either of the statutory steps under Sub.H.B. No. 427 and R.C. 5709.911 to preserve the priority of the TIF exemption and its right to service payments.

PROCEDURAL HISTORY

The Tax Commissioner granted Tri-City Church of God's application for a house-of-public-worship exemption and later denied Fairfield Township's complaint against the continued exemption. The Board of Tax Appeals affirmed in BTA No. 2015-633. The township appealed to the Supreme Court of Ohio, which affirmed.

DISPOSITION

affirmed

CASES CITED

- Kohl’s Illinois, Inc. v. Marion Cty. Bd. of Revision, 140 Ohio St. 3d 522, 2014-Ohio-4353, 20 N.E.3d 711
- Princeton City School Dist. Bd. of Edn. v. Zaino, 94 Ohio St. 3d 66, 68, 760 N.E.2d 375 (2002)
- Drees Co. v. Hamilton Twp., 132 Ohio St. 3d 186, 2012-Ohio-2370, 970 N.E.2d 916
- State ex rel. Schramm v. Ayres, 158 Ohio St. 30, 33, 106 N.E.2d 630 (1952)
- Dixon v. Van Sweringen Co., 121 Ohio St. 56, 166 N.E. 887 (1929)
- Cincinnati City School Dist. Bd. of Edn. v. Conners, 132 Ohio St. 3d 468, 2012-Ohio-2447, 974 N.E.2d 78
- Key v. Vattier, 1 Ohio 132, 147 (1823)
- Orwell Natural Gas Co. v. Fredon Corp., 2015-Ohio-1212, 30 N.E.3d 977 (11th Dist.)
- Middletown v. Ferguson, 25 Ohio St. 3d 71, 495 N.E.2d 380 (1986)
- Palazzi v. Estate of Gardner, 32 Ohio St. 3d 169, 512 N.E.2d 971 (1987)
- Toledo City School Dist. Bd. of Edn. v. State Bd. of Edn., 146 Ohio St. 3d 356, 2016-Ohio-2806, 56 N.E.3d 950