SUPREME COURT OF OREGON

Department of Revenue v. River's Edge Investments, LLC

359 Or. 822 (2016) · No. S062829 · Decided June 30, 2016

SUMMARY

The Oregon Supreme Court affirmed the Tax Court's valuation of a convention center for the 2008–09 property tax year, concluding that the Tax Court properly disregarded the Department of Revenue's appraisal because the appraiser failed to adequately explain the omission of an income approach. The court held that the Tax Court's reliance on the taxpayer's income-based valuation was supported by the record. It did not resolve whether Measure 50 requires property in separate tax accounts to be valued independently, but vacated the attorney fee award because it relied in part on that issue and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Brewer, J.
JURISDICTION	Oregon
DECIDED	June 30, 2016
DOCKET	S062829
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Department of Revenue and Deschutes County Assessor appealed from an Oregon Tax Court judgment accepting the taxpayer's lower real-market-value appraisal for a convention center and from a supplemental judgment awarding the taxpayer attorney fees.
STANDARD OF REVIEW	The court reviews the Tax Court's legal determinations for errors of law and its factual findings for lack of substantial evidence in the record. ORS 305.445.
PRECEDENTIAL VALUE	Published, precedential Oregon Supreme Court opinion decided en banc.
PARTIES	Department of Revenue, State of Oregon, Deschutes County Assessor v. River's Edge Investments, LLC

TOPICS

property tax | tax court procedure | appellate procedure | standard of review | statutory interpretation

PRACTICE AREAS

property taxation | appraisal and valuation | tax court appeals | attorney fees

QUESTIONS PRESENTED

1. Whether the Tax Court erred by rejecting the Department's appraisal because the appraiser failed to develop an income approach without an adequate explanation.
2. Whether the Tax Court was required to consider the Department's cost-approach valuation even after finding the appraisal insufficiently credible.
3. Whether Measure 50 required real market value and highest-and-best-use determinations to exclude references to property outside the tax account under appeal.
4. Whether the Tax Court's attorney-fee award should stand when it relied in part on the court's Measure 50 analysis.

HOLDINGS

1. The Tax Court did not err in disregarding the Department's appraisal because the appraiser's unexplained departure from standard appraisal practice undermined the appraisal's credibility.
2. The Tax Court was not required to give weight to the Department's cost approach after permissibly determining that the income approach was the more reliable method of valuation.
3. The court did not decide the merits of the Tax Court's conclusion that Measure 50 barred consideration of characteristics of property in other tax accounts; it held only that the conclusion was of questionable validity and was unnecessary to affirmance.
4. The supplemental judgment awarding attorney fees must be vacated and remanded because the Tax Court's discretionary fee analysis relied in part on its Measure 50 conclusion, which the Supreme Court substantially undermined.

KEY QUOTATIONS

> *"The Tax Court merely held that an appraisal's credibility is harmed when the appraiser declines to use one of the two remaining approaches to valuation in the absence of a credible explanation."* (837)

> *"A final value is not determined by averaging results from different methods, but by comparing the approaches used and their reliability in context."* (839)

> *"Because there is no indication that tax accounts define an economic unit for the purposes of the income approach, the Tax Court's reliance on Measure 50 to support its rejection of the department's appraisal is of questionable validity."* (842)

FACTUAL BACKGROUND

River's Edge Investments owned a convention center in Bend, Oregon, adjacent to a hotel owned by the same taxpayer, with the properties held in separate tax accounts. The Department's appraiser valued the convention center at $16,700,000 using only the cost approach and did not perform an income approach because the available records did not identify hotel income attributable to the convention center. The taxpayer's appraisal used both cost and income approaches and concluded that the income approach was more reliable, yielding a value of $4,130,000 before the Tax Court's adjustment for personal property. The Tax Court rejected the Department's appraisal as insufficiently credible and accepted a final value of $2,668,000.

PROCEDURAL HISTORY

The Oregon Tax Court rejected the Department's appraisal, accepted the taxpayer's income-approach valuation, and determined the property's 2008-09 real market value to be $2,668,000. It also awarded the taxpayer attorney fees under ORS 305.490(4)(a)(A). The Oregon Supreme Court affirmed the merits judgment, vacated the supplemental attorney-fee judgment, and remanded for reconsideration.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The merits judgment of the Oregon Tax Court is affirmed. The supplemental judgment awarding attorney fees is vacated, and the Tax Court must reconsider whether to exercise its discretion to award attorney fees without relying on the Measure 50 issue.

CASES CITED

- Hewlett-Packard Co. v. Benton County Assessor, 357 Or. 598, 602-03, 356 P.3d 70 (2015)
- STC Submarine, Inc. v. Department of Revenue, 320 Or. 589, 595, 890 P.2d 1370 (1995)
- Flavorland Foods v. Washington County Assessor, 334 Or. 562, 567, 578, 54 P.3d 582 (2002)
- Pacific Power & Light Co. v. Department of Revenue, 286 Or. 529, 533, 596 P.2d 912 (1979)
- Brooks Resources Corp. v. Department of Revenue, 286 Or. 499, 505-06, 595 P.2d 1358 (1979)
- Clackamas County Assessor v. Village at Main Street, 352 Or. 144, 151, 153, 282 P.3d 814 (2012)

INSTRUCTIONS FOR AN AI ASSISTANT