SUPREME COURT OF NEVADA

Canyon Villas Apartments Corp. v. State, Tax Comm'n, 124 Nev. 832

192 P.3d 746 (2008) · No. 47994 · Decided September 25, 2008

SUMMARY

The Nevada Supreme Court reviewed the valuation of income-producing apartment properties containing constructional defects for the 2004–2005 tax year. The court held that the income-capitalization method was appropriate and that the State Board of Equalization properly accounted for the defects by increasing the capitalization rate rather than deducting construction-defect judgments directly from replacement cost. The court affirmed the district court's denial of judicial review.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Nevada
DECIDED	September 25, 2008
DOCKET	47994
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appellants sought judicial review of the State Board of Equalization's decision concerning their 2004-2005 property-tax assessments. The district court denied the petition, and appellants appealed.
STANDARD OF REVIEW	The State Board of Equalization's decision is presumed valid. A taxpayer must overcome that presumption by clear and satisfactory evidence showing that the Board applied a fundamentally wrong principle, refused to exercise its best judgment, or imposed an excessively high assessment implicating fraud or bad faith. Statutory-construction conclusions are reviewed de novo, while the Board's valuation determination receives the stated presumption of validity.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential
PARTIES	Canyon Villas Apartments Corporation, Desert Club Corporation, D.I.P. Investment Corporation, Indian Hills, LLC, Hidden Cove Corporation, Breakers, LLC, Eagle Trace, LLC, Spanish Ridge Corporation, ORRC Holding II Corporation, Falling Water Corporation, Arroyo Grande Apartment Corporation, Horizon Ridge

Apartment Corporation, Durango North and Durango South Corporations, Olen Residential Realty Corporation v. State of Nevada, Nevada Tax Commission, State Board of Equalization, County of Clark, Clark County Board of Equalization, Clark County Assessor Mark W. Schofield

TOPICS

property tax | tax | administrative law | judicial review of agency action | appellate procedure

PRACTICE AREAS

property tax | administrative law | real estate valuation | appellate procedure

QUESTIONS PRESENTED

1. Whether Nevada's property-tax assessment scheme permits use of the income-capitalization method to determine the full cash value of income-producing real property whose improvements contain constructional defects.
2. Whether the State Board properly accounted for the constructional defects by increasing the properties' capitalization rates rather than deducting construction-defect damages directly from replacement cost.
3. Whether the appellants established by clear and satisfactory evidence that the State Board applied a fundamentally wrong principle or failed to exercise its best judgment in imposing a 2.25 percent capitalization-rate increase.

HOLDINGS

1. The income-capitalization method is an appropriate method for assessing the full cash value of income-producing real property when the improvements contain constructional defects.
2. The State Board was not required to deduct the amount of constructional-defect judgments directly from the replacement cost or assessed value of the apartment improvements.
3. The appellants failed to establish by clear and satisfactory evidence that the State Board applied a fundamentally wrong principle or failed to exercise its best judgment in selecting a 2.25 percent capitalization-rate increase.

KEY QUOTATIONS

> *“Because those two factors account for the income a property is expected to generate and the condition of improvements on the property, including any constructional defects, the income capitalization method is an appropriate method for assessing the full cash value of income-generating property that contains constructional defects in its improvements.”* (749)

> *“Accordingly, we affirm the district court's order denying judicial review of the State Board of Equalization's decision.”* (756)

FACTUAL BACKGROUND

The appellants owned sixteen Las Vegas-area apartment complexes and reported significant constructional defects in some of the properties. They sought reductions in taxable value based on the defects, including a reduction reflecting a $112 million construction-defect judgment. The State Board of Equalization rejected a dollar-for-dollar deduction and instead increased the capitalization rate for all sixteen properties by 2.25 percent. The properties continued to generate substantial income, including approximately $3 million in annual net operating income for one complex.

PROCEDURAL HISTORY

The Clark County Assessor assessed the apartment properties under NRS 361.227 and used the income-capitalization method to determine full cash value. The Clark County Board of Equalization adjusted capitalization rates for seven properties, and the State Board of Equalization later increased the capitalization rate by 2.25 percent for all sixteen properties to account for constructional defects. The district court denied judicial review, and the Supreme Court of Nevada affirmed.

DISPOSITION

affirmed

CASES CITED

- Imperial Palace v. State, Dep't Taxation, 108 Nev. 1060, 843 P.2d 813 (1992)
- State, Bd. of Equalization v. Bakst, 122 Nev. 1403, 148 P.3d 717 (2006)
- Beavers v. State, Dep't of Motor Vehicles, 109 Nev. 435, 851 P.2d 432 (1993)
- Hometowne Associates, L.P. v. Maley, 839 N.E.2d 269 (Ind. Tax Ct. 2005)
- Tatten Partners v. New Castle County, 642 A.2d 1251 (Del. Super. Ct. 1993)
- Southern Minn. Beet Sugar Coop. v. County of Renville, 737 N.W.2d 545 (Minn. 2007)
- Snider v. Casino Aztar/Aztar Mo. Gaming Corp., 156 S.W.3d 341 (Mo. 2005)
- Midlantic Operating Admin. v. West Caldwell Township, 20 N.J. Tax 446 (2002)
- Merrick Holding Corp. v. Board of Assessors, 45 N.Y.2d 538, 382 N.E.2d 1341 (1978)
- National Advertising Co. v. State, Dep't of Transportation, 116 Nev. 107, 993 P.2d 62 (2000)
- Nevada Tax Commission v. Southwest Gas Corp., 88 Nev. 309, 497 P.2d 308 (1972)
- Eikelberger v. State ex rel. Dep't of Highways, 83 Nev. 306, 429 P.2d 555 (1967)
- Old Aztec Mine, Inc. v. Brown, 97 Nev. 49, 623 P.2d 981 (1981)