SUPREME COURT OF NEBRASKA

Platte River Whooping Crane Maintenance Trust, Inc. v. Hall County Board of Equalization

298 Neb. 970 (2018) · No. S-17-389 · Decided February 9, 2018

SUMMARY

The Nebraska Supreme Court held that the Platte River Whooping Crane Maintenance Trust qualified as a charitable organization under Neb. Rev. Stat. § 77-202(1)(d). The court concluded that the subject properties were used exclusively for charitable purposes and were not owned or used for financial gain or profit, reversing the Tax Equalization and Review Commission and remanding with directions to grant the property tax exemption.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Kelch, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.
JURISDICTION	Nebraska
DECIDED	February 9, 2018
DOCKET	S-17-389
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Nebraska Tax Equalization and Review Commission's decision affirming the denial of a property tax exemption.
STANDARD OF REVIEW	Decisions of the Tax Equalization and Review Commission are reviewed for errors appearing on the record. The court determines whether the decision conforms to law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable. Statutory interpretation presents a question of law reviewed independently.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Platte River Whooping Crane Maintenance Trust, Inc. v. Hall County Board of Equalization

TOPICS

property tax · tax exempt organizations · tax · statutory interpretation · appellate procedure

PRACTICE AREAS

property tax · administrative law · tax exemption · appellate procedure

QUESTIONS PRESENTED

1. Whether a conservation organization may qualify as a charitable organization under Neb. Rev. Stat. § 77-202(1)(d).
2. Whether the subject properties were used exclusively for charitable purposes.
3. Whether cattle-grazing lease income meant that the properties were owned or used for financial gain or profit.

HOLDINGS

1. A conservation organization may qualify as a charitable organization under § 77-202(1)(d) when it operates exclusively for the mental, social, or physical benefit of the public and otherwise satisfies the statutory exemption requirements.
2. The subject properties were used exclusively for charitable purposes because the Crane Trust's primary or dominant use was conservation and public education, and conservation activities provided public mental, social, and physical benefits.
3. The cattle-grazing lease did not disqualify the properties from exemption because the income was not distributed to owners, members, officers, directors, or private individuals, and the grazing was incidental to the primary charitable conservation use.

KEY QUOTATIONS

> *"We conclude that the Crane Trust operated exclusively for the purpose of the mental, social, or physical benefit of the public."* (976)

> *"Because the Legislature views the conservation of endangered species as a policy of the state, and conservation groups like the Crane Trust relieve the state of that burden, we conclude that the Legislature intended for those groups, provided they otherwise meet "charitable organization" criteria, to be considered "charitable organizations" under § 77-202(1)(d)."* (977)

FACTUAL BACKGROUND

The Crane Trust is a nonprofit corporation that conserves and protects natural habitat for whooping cranes, sandhill cranes, and other migratory birds along Nebraska's Platte River. It sought a property tax exemption for six parcels totaling 829.68 acres, presenting largely undisputed evidence of public tours, trails, educational programs, scientific research, and habitat conservation. A portion of the property was leased for cattle grazing for $9,300, but the income was not distributed to private persons and the cost of managing the properties exceeded the lease income.

PROCEDURAL HISTORY

The Hall County Board of Equalization denied the Crane Trust's application for a charitable property tax exemption for six parcels for tax year 2015. The Nebraska Tax Equalization and Review Commission affirmed, concluding that the statutory term charitable organization did not include conservation organizations. The Nebraska Supreme Court reversed and remanded with directions to enter an order granting the exemption.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Nebraska Tax Equalization and Review Commission to enter an order providing that the subject properties are entitled to a property tax exemption under Neb. Rev. Stat. § 77-202(1)(d) for the 2015 tax year.

CASES CITED

- Cain v. Custer Cty. Bd. of Equal., 291 Neb. 730, 868 N.W.2d 334 (2015)
- Creighton St. Joseph Hosp. v. Tax Eq. & Rev. Comm., 260 Neb. 905, 620 N.W.2d 90 (2000)
- Fort Calhoun Bapt. Ch. v. Washington Cty. Bd. of Eq., 277 Neb. 25, 759 N.W.2d 475 (2009)
- Neb. State Bar Found. v. Lancaster Cty. Bd. of Equal., 237 Neb. 1, 465 N.W.2d 111 (1991)
- Bethesda Found. v. Buffalo Cty. Bd. of Equal., 263 Neb. 454, 640 N.W.2d 398 (2002)
- Francis Small Heritage v. Town of Limington, 98 A.3d 1012 (Me. 2014)
- Turner v. Trust for Public Land, 445 So. 2d 1124 (Fla. App. 1984)
- New England Forestry v. Board of Assessors, 468 Mass. 138, 9 N.E.3d 310 (2014)
- Pecos River Open Spaces, Inc. v. Cnty. of San Miguel, 2013 NMCA 029, ___ P.3d ___ (2013)
- Little Miami v. Kinney, 68 Ohio St. 2d 102, 428 N.E.2d 859 (1981)
- Mohonk Trust v. Assessors, 47 N.Y.2d 476, 392 N.E.2d 876, 418 N.Y.S.2d 763 (1979)
- Neb. Unit. Meth. Ch. v. Scotts Bluff Cty. Bd. of Equal., 243 Neb. 412, 499 N.W.2d 543 (1993)