SUPREME COURT OF VIRGINIA

Woolford v. Virginia Dep't of Taxation, 294 Va. 377

806 S.E.2d 398 (2017) · No. Record No. 161095 · Decided November 22, 2017

SUMMARY

The Supreme Court of Virginia held that the appraiser retained by the Woolfords was a qualified appraiser under Code § 58.1-512(B), despite lacking formal coursework in mineral appraisals, because his experience and research provided verifiable experience valuing relevant property. The court further held that the Virginia Department of Taxation could audit and challenge the value of previously awarded land-preservation tax credits after the initial award. The judgment was reversed and remanded for resolution of remaining issues concerning the appraisal and the amount of tax credits.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice Stephen R. McCullough; All the Justices
JURISDICTION	Virginia
DECIDED	November 22, 2017
DOCKET	Record No. 161095
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Woolfords appealed the Virginia Department of Taxation's rescission and disallowance of previously awarded land-preservation tax credits. The circuit court granted summary judgment to the Department, holding that the Woolfords' appraiser was not a qualified appraiser under Code § 58.1-512(B).
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Virginia
PARTIES	James K. Woolford, Trustee of the Woolford Trust U/A DTD 13 April 2008, et al. v. Virginia Department of Taxation

TOPICS

tax credits · tax audits · statutory interpretation · administrative law · appellate procedure

PRACTICE AREAS

state taxation administrative law appellate procedure real estate valuation

QUESTIONS PRESENTED

1. Whether Simerlein qualified as a qualified appraiser under Code § 58.1-512(B) and the federal standards incorporated by that statute.
2. Whether the Department of Taxation could audit and challenge the value of an appraisal after initially awarding the tax credits, even if the appraisal was not false or fraudulent.
3. Whether the appellee's failure to assign cross-error preserved alternative grounds that the circuit court had not decided.

HOLDINGS

1. Simerlein was a qualified appraiser under Code § 58.1-512(B) because he possessed sufficient verifiable experience and knowledge in valuing property of the type at issue, including property containing sand and gravel deposits.
2. The Department of Taxation may audit and challenge the value of tax credits after initially awarding them; its audit authority is not limited to determining whether the appraisal was false or fraudulent.
3. An appellee need not assign cross-error merely because the lower court failed to rule on alternative grounds when the appellee does not seek to modify or otherwise change the favorable judgment.

KEY QUOTATIONS

> *"The point of Code § 58.1-512 as well as 26 U.S.C. § 170(f) is not to invite guesswork or incompetence but to obtain an appraisal by someone who possesses sufficient knowledge and experience to make an informed appraisal of the property in question."* (at 8)

> *"If the Department concludes that an appraisal is flawed in some way – but not false or fraudulent – the Department can rely on those portions of the appraisal that are reliable as it strives to ensure that the credits claimed are in fact based on "[t]he fair market value of [the] qualified donation[].""* (at 10)

FACTUAL BACKGROUND

The Woolford family owned a 450-acre farm containing significant unmined sand and gravel deposits and donated a conservation easement over the entire property to the Virginia Outdoors Foundation. They hired Michael J. Simerlein, a Virginia-licensed general real estate appraiser with substantial conservation-easement and relevant sand-and-gravel appraisal experience, to value the property and easement. Based on his appraisal, the Department awarded approximately $4.972 million in tax credits, but later audited the credits, rejected the appraisals, and disallowed them entirely.

PROCEDURAL HISTORY

The Department initially awarded the Woolfords approximately $4.972 million in land-preservation tax credits, which they later transferred to 168 transferees. After an audit, the Department rejected the appraisals and disallowed all credits. The Circuit Court of King William County sustained the Department's decision on the ground that the appraiser lacked the required education and experience. The Supreme Court of Virginia reversed that determination and remanded for resolution of the Department's remaining challenges to the appraisal and tax-credit calculation.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for resolution of the remaining issues concerning the value and eligibility of the claimed tax credits, including whether the prospective mine constituted an interest in land eligible for a credit, whether the 25-percent or 40-percent credit applied, whether the donation was consistent with existing zoning requirements, and whether the appraisal accurately reflected market demand for aggregate.

CASES CITED

- Jones v. Williams, 280 Va. 635, 701 S.E.2d 405 (2010)
- Syed v. ZH Techs., Inc., 280 Va. 58, 694 S.E.2d 625 (2010)
- Tax Analysts v. IRS, 416 F. Supp. 2d 119 (D.D.C. 2006)
- Horner v. Dep't of Mental Health, 268 Va. 187, 597 S.E.2d 202 (2004)
- Virginia Marine Res. Comm'n v. Clark, 281 Va. 679, 709 S.E.2d 150 (2011)
- Alexandria Redevelopment & Hous. Auth. v. Walker, 290 Va. 150, 772 S.E.2d 297 (2015)
- Jennings v. Stephens, 135 S. Ct. 793 (2015)