SUPREME COURT OF NEBRASKA

City of York v. York County Board of Equalization, 266 Neb. 297

664 N.W.2d 445 (2003) · No. No. S-02-498 · Decided July 11, 2003

SUMMARY

The Supreme Court of Nebraska held that land owned by the City of York and leased for agricultural use adjacent to a municipal airport was being used for a public purpose. Because the agricultural use was incidental to the land's primary use as an airport buffer zone, and the lease was at fair market value, the property was exempt from taxation. The court reversed the Tax Equalization and Review Commission and remanded with directions to reverse the county board's taxation decision.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Wright, J.; Hendry, C.J.; Connolly, J.; Gerrard, J.; Stephan, J.; McCormack, J.; Miller-Lerman, J.
JURISDICTION	Nebraska
DECIDED	July 11, 2003
DOCKET	No. S-02-498
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The City appealed the Tax Equalization and Review Commission's affirmance of the York County Board of Equalization's determination that municipally owned airport buffer-zone land leased for restricted agricultural use was taxable.
STANDARD OF REVIEW	TERC decisions are reviewed for errors appearing on the record. The appellate court determines whether the decision conforms to the law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable. Questions of law are reviewed de novo on the record.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential
PARTIES	City of York v. York County Board of Equalization

TOPICS

property tax · tax · municipal law · administrative law · appellate procedure

PRACTICE AREAS

property tax | municipal law | administrative law | constitutional law

QUESTIONS PRESENTED

1. Whether municipally owned land adjacent to an airport, leased at fair market value for restricted agricultural use to maintain an FAA-required airport buffer zone, was used for a public purpose and therefore exempt from property taxation under Neb. Rev. Stat. § 77-202(1)(a).
2. Whether the agricultural use was the predominant use of the property or merely incidental to its use as an airport buffer zone.
3. Whether the court needed to decide the City's argument that the taxation violated the Nebraska Constitution's uniformity and proportionality requirement.

HOLDINGS

1. Municipally owned land leased at fair market value for restricted agricultural use to maintain an airport buffer zone required by federal aviation requirements is used for a public purpose and is exempt from property taxation under Neb. Rev. Stat. § 77-202(1)(a).
2. The primary use of the leased land was as an airport buffer zone, and the agricultural use was incidental.
3. The court declined to reach the City's argument that taxation violated article VIII, § 1, of the Nebraska Constitution because it held the property exempt from taxation.

KEY QUOTATIONS

> *"We conclude that the primary use of the land is as an airport buffer zone and that the agricultural use is incidental."* (451)

> *"We conclude as a matter of law that the leased property is being used for a public purpose and is exempt from taxation."* (451)

FACTUAL BACKGROUND

The City of York owned approximately 423.2 acres adjacent to its municipal airport, including approximately 245 acres leased to a private party for restricted agricultural use. Federal Aviation Administration requirements and grant assurances required the City to maintain the unimproved land as a buffer or hazard-transition zone, and the lease restricted crops, prohibited livestock, and was subject to FAA approval. The lease generated fair-market-value rent, and the City used the revenue for airport operating expenses.

PROCEDURAL HISTORY

The York County assessor determined that approximately 245 acres of municipally owned land adjacent to the York Municipal Airport were taxable because they were leased to a private party for agricultural use. The Board denied the City's protest, and TERC affirmed. The Nebraska Supreme Court reversed TERC and remanded with directions to reverse the Board's determination that the property was taxable.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

TERC was directed to reverse the decision of the York County Board of Equalization finding the property taxable.

CASES CITED

- Marshall v. Dawes Cty. Bd. of Equal., 265 Neb. 33, 654 N.W.2d 184 (2002)
- City of Alliance v. Box Butte Cty. Bd. of Equal., 265 Neb. 262, 656 N.W.2d 439 (2003)
- Pittman v. Sarpy Cty. Bd. of Equal., 258 Neb. 390, 603 N.W.2d 447 (1999)
- Firethorn Invest. v. Lancaster Cty. Bd. of Equal., 261 Neb. 231, 622 N.W.2d 605 (2001)
- US Ecology v. Boyd Cty. Bd. of Equal., 256 Neb. 7, 588 N.W.2d 575 (1999)
- State ex rel. Stenberg v. Omaha Expo. & Racing, 263 Neb. 991, 644 N.W.2d 563 (2002)
- Sandberg v. State, 188 Neb. 335, 196 N.W.2d 501 (1972)
- State ex rel. School Dist. of Scottsbluff v. Ellis, 168 Neb. 166, 95 N.W.2d 538 (1959)
- Doane College v. County of Saline, 173 Neb. 8, 112 N.W.2d 248 (1961)
- City of Winfield v. Board of County Commissioners, 205 Kan. 333, 469 P.2d 424 (1970)