SUPREME COURT OF OHIO

O'Keeffe v. McClain

2021-Ohio-2186 (Ohio 2021) · No. 2020-0134 · Decided June 30, 2021

SUMMARY

The Supreme Court of Ohio held that the entire 325.614-acre parcel used by The Ohio State University to operate the OSU Airport was entitled to exemption from real-property taxation under R.C. 3345.17. The court concluded that the airport had an operational relationship to the university's educational and research activities and that its public-airport operations supported those programs. The court also held that the property owner bears the burden of proving entitlement to continued exemption under R.C. 5715.271 and rejected the appellant's arguments concerning changed use and primary use.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Stewart, J.; O'Connor, C.J.; Fischer, J.; Donnelly, J.; Brunner, J.; Kennedy, J.; DeWine, J.
JURISDICTION	Ohio
DECIDED	June 30, 2021
DOCKET	2020-0134
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Board of Tax Appeals affirming the tax commissioner's determination that the Ohio State University Airport parcel remained exempt from real-property taxation.
STANDARD OF REVIEW	The Supreme Court reviews Board of Tax Appeals decisions to determine whether they are reasonable and lawful; legal issues are reviewed de novo, while credibility determinations are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Ohio
PARTIES	John S. O'Keeffe v. Ohio State University, Tax Commissioner

TOPICS

property tax · state and local tax · statutory interpretation · appellate procedure

PRACTICE AREAS

property taxation · state and local taxation · administrative appeals · statutory interpretation

QUESTIONS PRESENTED

1. Whether continued exemption depends on a material change in the property's use since the exemption was originally granted.
2. Whether the OSU Airport parcel qualifies for exemption under R.C. 3345.17 as state property held for the use and benefit of a state university and used for the university's support.
3. Whether the airport parcel must be split-listed under R.C. 5713.04 because portions are leased or used for private income-generating activities.
4. Whether the appellees' evidentiary objections were properly before the Supreme Court absent a cross-appeal.

HOLDINGS

1. A complaint against continued exemption requires the tax commissioner to determine whether the property currently qualifies under a valid exemption statute; exemption is not defeated merely because the property's current use differs from an earlier use or because it no longer qualifies under the statute that supported an earlier exemption.
2. The property owner bears the burden of proving entitlement to a continued property-tax exemption, even when the owner is defending against a complaint to discontinue exemption.
3. The entire OSU Airport parcel qualifies for exemption under R.C. 3345.17 because it is state property held for OSU's use and benefit and is used to support OSU through an organizational and functional operational relationship with the university's educational and research activities.
4. R.C. 3345.17 does not require split-listing of rent-generating portions of university property when the parcel has a primary use supporting the university and a sufficient operational relationship with university activities.
5. The Supreme Court lacked jurisdiction to grant OSU relief on evidentiary objections because OSU did not file a cross-appeal challenging the BTA's evidentiary rulings.

KEY QUOTATIONS

> *"The proper inquiry when a complaint against exemption has been filed is whether the property now qualifies for exemption under a currently valid exemption statute."* (¶ 19)

> *"If a tax parcel is shown to have a primary use for the support of a state university, including a sufficient operational relationship over and above any income-generating function, the entire parcel will qualify for exemption under R.C. 3345.17."* (¶ 48)

FACTUAL BACKGROUND

The State of Ohio owns a 325.614-acre parcel operated by Ohio State University as the OSU Airport, a full-service public general-aviation airport. The airport is integrated into OSU's College of Engineering and supports university classes, research facilities, student employment, and academic programs, while also providing public aviation services and leasing hangars and office space to private users. O'Keeffe challenged the continuing exemption, arguing that the airport's public and income-generating uses predominated or that portions leased to private users should be separately taxed.

PROCEDURAL HISTORY

O'Keeffe filed a complaint challenging the continuing property-tax exemption for the Ohio State University Airport parcel. The tax commissioner upheld the exemption under R.C. 3345.17, and the Board of Tax Appeals affirmed. O'Keeffe appealed to the Supreme Court of Ohio, which affirmed the BTA.

DISPOSITION

affirmed

CASES CITED

- Grace Cathedral, Inc. v. Testa, 143 Ohio St.3d 212, 2015-Ohio-2067, 36 N.E.3d 136, ¶ 16
- Progressive Plastics, Inc. v. Testa, 133 Ohio St.3d 490, 2012-Ohio-4759, 979 N.E.2d 280, ¶ 15
- Vick v. Cleveland Mem. Med. Found., 2 Ohio St.2d 30, 206 N.E.2d 2 (1965)
- Cincinnati v. Testa, 143 Ohio St.3d 371, 2015-Ohio-1775, 38 N.E.3d 847, ¶ 14
- Natl. Cable Television Assn., Inc. v. Am. Cinema Editors, Inc., 937 F.2d 1572, 1581 (Fed. Cir. 1991)
- United Food & Commercial Workers Union v. Albertson's Inc., 207 F.3d 1193, 1199-1200 (10th Cir. 2000)
- State ex rel. Davis v. Pub. Emps. Retirement Bd., 120 Ohio St.3d 386, 2008-Ohio-6254, 899 N.E.2d 975, ¶¶ 38-39
- Columbus City School Dist. Bd. of Edn. v. Testa, 130 Ohio St.3d 344, 2011-Ohio-5534, 958 N.E.2d 557
- Ohio State Univ. Bd. of Trustees v. Kinney, 5 Ohio St.3d 173, 449 N.E.2d 1282 (1983)
- State for Use of Univ. of Cincinnati v. Limbach, 51 Ohio St.3d 6, 553 N.E.2d 1056 (1990)
- Parisi Transp. Co. v. Wilkins, 102 Ohio St.3d 278, 2004-Ohio-2952, 809 N.E.2d 1126, ¶ 22
- Ace Steel Baling, Inc. v. Porterfield, 19 Ohio St.2d 137, 249 N.E.2d 892 (1969)
- Cleveland v. Perk, 29 Ohio St.2d 161, 280 N.E.2d 653 (1972)
- Rickenbacker Port Auth. v. Limbach, 64 Ohio St.3d 628, 597 N.E.2d 494 (1992)
- Polaris Amphitheater Concerts, Inc. v. Delaware Cty. Bd. of Revision, 118 Ohio St.3d 330, 2008-Ohio-2454, 889 N.E.2d 103, ¶ 14
- Ohio State Univ. Bd. of Trustees v. Limbach, BTA No. 87-B-729, 1992 WL 88377, *5 (Apr. 24, 1992)
- Dialysis Ctrs. of Dayton, L.L.C. v. Testa, 150 Ohio St.3d 208, 2017-Ohio-4269, 80 N.E.3d 477