SUPREME COURT OF VIRGINIA

Shoosmith Bros., Inc. v. County of Chesterfield

268 Va. 241 (2004) · No. Record No. 032572 · Decided September 17, 2004

SUMMARY

The Supreme Court of Virginia reviewed Chesterfield County's assessment of property used as a sanitary landfill. The court held that the County properly considered the property's permitted landfill use and applied the income-capitalization method, because doing so did not improperly tax nontransferable permits or intangible assets. The court affirmed the trial court's judgment upholding the assessment.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Lacy, Justice; All the Justices
JURISDICTION	Virginia
DECIDED	September 17, 2004
DOCKET	Record No. 032572
DISPOSITION	affirmed
PROCEDURAL POSTURE	Shoosmith appealed a circuit court judgment upholding Chesterfield County's real-property tax assessment of landfill property. The Supreme Court of Virginia granted the appeal on three assignments of error concerning the assessment methodology, the valuation, and the exclusion of Shoosmith's expert valuation testimony.
STANDARD OF REVIEW	A county tax assessment is presumed correct. The taxpayer bears the burden of rebutting that presumption by a clear preponderance of the evidence and must show manifest error or total disregard of controlling evidence in determining fair market value.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Virginia
PARTIES	Shoosmith Brothers, Inc. v. County of Chesterfield

TOPICS

property tax · state and local tax · tax · standard of review · appellate procedure

PRACTICE AREAS

property tax · real estate valuation · state and local tax · municipal law · appellate procedure

QUESTIONS PRESENTED

1. Whether the County's use of the income-capitalization method to assess the permitted landfill property was appropriate.
2. Whether consideration of the landfill's permitted use improperly assessed the value of intangible, non-transferable permits.
3. Whether the income-capitalization method required the County to use only rental income attributable to the land.
4. Whether Shoosmith proved that the assessment was manifestly erroneous or that the County ignored controlling evidence.

HOLDINGS

1. Consideration of the use of land in assessing its fair market value is proper even when the use depends on non-transferable governmental permits; doing so does not constitute assessment of the permits as intangible assets.
2. For an owner-operated landfill that is not under lease and for which comparable lease data is unavailable, the County may estimate the net income attributable to the real estate by analyzing the property's gross income and expenses rather than relying exclusively on rental income.

KEY QUOTATIONS

> *"Accordingly, we hold that consideration of the use of the land in assessing fair market value, even if such use requires non-transferable government permits, is not the assessment of an intangible asset."* (at 244)

> *"Based on this record, we hold that the trial court did not err in concluding that Shoosmith failed to show either that the County committed manifest error in assessing the landfill property based on the income method or that the County ignored controlling evidence in determining the fair market value of the property at issue."* (at 245)

FACTUAL BACKGROUND

Shoosmith owned a 1,163-acre parcel in Chesterfield County, including 200 acres operated as a sanitary landfill under state and local permits that were not transferable and did not run with the land. The County used an income-capitalization method, valuing the landfill property based on its income stream, projected useful life, expenses, and a discount rate. Shoosmith argued that the assessment improperly included the value of its landfill business and permits and instead offered comparable sales of undeveloped agricultural or residential properties.

PROCEDURAL HISTORY

The County applied the income-capitalization method to assess Shoosmith's landfill property. The Board of Equalization upheld the assessment, and the circuit court concluded that the methodology was appropriate and that the assessment reasonably reflected fair market value. The Supreme Court of Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Tidewater Psychiatric Institute, Inc. v. City of Virginia Beach, 256 Va. 136, 140-41, 501 S.E.2d 761, 763-64 (1998)
- Norfolk & Western Railway Co. v. Commonwealth, 211 Va. 692, 699, 179 S.E.2d 623, 628 (1971)
- Board of Supervisors of Fairfax County v. HCA Health Services of Virginia, Inc., 260 Va. 317, 327-31, 535 S.E.2d 163, 168-70 (2000)
- Tysons International L.P. v. Board of Supervisors, 241 Va. 5, 11, 400 S.E.2d 151, 154 (1991)
- Board of Supervisors v. Nassif, 223 Va. 400, 404-05, 290 S.E.2d 822, 825 (1982)
- Waste Management of Wisconsin v. Kenosha County Board of Review, 184 Wis. 2d 541, 516 N.W.2d 695, 704-05 (Wis. 1994)
