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Norwegian Tp. v. Schuylkill County Bd. of Assessment Appeals

Commonwealth Court of Pennsylvania - August 12, 2013 - A.3d - 2013 WL 4046669

Bank transferred Property to Township, which intended to convert it into a playground. Funds were not immediately available for this conversion, so the Property was used as open space while the Township pursued the playground project.

County sent a notice to the Township notifying the Township of municipal/county and school district tax liability for the Property. The Township appealed to the Board, which affirmed its tax assessment of the Property based on fair market value. The Township appealed the tax assessment of the Board to the trial court challenging the Property's tax-exempt status.

On appeal, the Board argued that the trial court erred in determining that the Board bore the burden of proving that the Township was not using the Property for a public purpose and therefore the Property was taxable. The Board asserted that the trial court erred in concluding that the Property was tax-exempt because: (1) the Township was not actively and currently using the Property for public purposes; (2) the Township merely "intended" to use the Property as a public park and/or playground and had not begun construction or expended significant sums of money towards this development; (3) the Township did not have the necessary funds to develop the Property for public purposes; and (4) the Township had failed to install improvements to the Property or notify its residents that the Property was available for public use as a park and/or playground.

The appeals court began its analysis by stating that a progeny of cases had held that municipal authorities, including townships, are extensions of the Commonwealth, and, thus, property owned by these entities is presumptively non-taxable.

The appeals court concluded by stating that, "Because property owned by a governmental body (i.e., a township) is presumed to be immune from taxation unless there is evidence presented that the property is being used for a non-governmental purpose, see Granville, the trial court correctly placed the burden on the taxing authority to prove the Township's tax liability. With the sole evidence by the Board being the tax assessment record card and a photograph of the Property establishing that it is vacant, the record supports the trial court's finding that there was no evidence in the record to suggest that the Property has been used for a non-public purpose and, moreover, supports the findings that the Property is available to the public for recreational activities and was used for the public's benefit. Though not required for a property to be tax-immune/exempt, the trial court also found that the Township made a good-faith effort to develop the Property (as established by the Township's testimony that it had continued to apply for grants, clear trees and debris, and maintain the Property as part of its regular maintenance program for playgrounds/parks). The evidence supports the trial court's findings, and it is insufficient to rebut the presumption—itself supported by a century of case law—that the Property is exempt from taxation. The trial court properly concluded that, '[u]nder these circumstances, taxation of the [P]roperty is neither

compelled nor intended by the Pennsylvania Constitution or the County Assessment Law.'"

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