

Bond Case Briefs

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Milewski v. Town of Dover

Supreme Court of Wisconsin - July 7, 2017 - N.W.2d - 2017 WL 2883925 - 2017 WI 79

Property owners brought action against municipality, alleging excessive property tax assessment and raising as-applied constitutional challenges to statutes governing procedure to be followed in challenging tax assessor's property valuation.

The Circuit Court granted municipality summary judgment. Property owners appealed. The Court of Appeals affirmed. Property owners petitioned for review, which petition was granted.

The Supreme Court of Wisconsin held that:

- Property owners had due process right to contest tax assessor's valuation of their real property as excessive;
- Tax assessor who enters home to conduct an "interior view" occupies private property for the purpose of obtaining information and is therefore conducting a Fourth Amendment search; and
- Statutory scheme governing process for challenging tax assessor's property valuation was unconstitutional as applied to property owners.

Warrantless home search, conducted by tax assessor in conformance with requirements of statutory scheme governing valuation of homes for tax purposes, was not, as matter of law, reasonable. While useful in ensuring compliance with state constitution's uniformity clause, by statute, real property could also be valued from best information the assessor could practicably obtain, such search was not minor intrusion, and not every application for an administrative warrant would result in issuance of a warrant.

Statutory scheme governing process for challenging tax assessor's property valuation, which scheme conditioned property owners' right to contest tax assessor's valuation of their real property as excessive on their granting of assessor's request to view property, was unconstitutional as applied to property owners who exercised their Fourth Amendment right to deny assessor's request to inspect home's interior, and who were thereafter denied their Fourteenth Amendment due process right to contest their increased tax burden.