
TAX - LOUISIANA

Filmore Parc Apartments II v. Foster

Court of Appeal of Louisiana, Fourth Circuit - November 7, 2018 - So.3d - 2018 WL 5830453 - 2018-0359 (La.App. 4 Cir. 11/7/18)

Taxpayer filed petition to recover ad valorem taxes, alleging that it provided public housing and, therefore, was exempt from ad valorem taxation.

The District Court granted summary judgment for parish assessor. Taxpayer appealed. The Court of Appeal reversed and remanded. On remand, the District Court denied in part and granted in part assessor's motion for summary judgment and denied in part and granted in part taxpayer's cross-motion for summary judgment. Assessor appealed, and taxpayer filed answer.

The Court of Appeal held that:

- Fact issues remained as to whether certain units were entitled to public use exemption, but
- Remaining units were not entitled to public use exemption.

Genuine issues of material fact as to whether housing units for very low-income and extremely low-income tenants that were subject to Section 8 rent subsidies were utilized in a way that was dedicated and open to the public, or used in a way that benefited the general public, and as to the use of revenue generated from the units, precluded summary judgment for tax assessor as to issue of whether the units were entitled to public use exemption from ad valorem taxation, in proceeding on taxpayer's petition to recover taxes paid under protest.

Low-income housing units were not entitled to public use exemption from ad valorem taxation; the units were not subject to Section 8 housing assistance program contract restrictions, the units were fully occupied during the tax year, and the units generated income to subsidize units for very low-income and extremely low-income tenants that were subject to Section 8 rent subsidies.

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