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City of Hardeeville v. Jasper County

Court of Appeals of South Carolina - July 17, 2024 - S.E.2d - 2024 WL 3434583

In 1999, Jasper and Beaufort counties drafted an agreement (the Park Agreement) to jointly develop the Nickel Plate Multi-County Business Park (MCBP).

The Park Agreement provided that property located in the MCBP was exempt from ad valorem taxes for the duration of the agreement and instead of ad valorem taxes, owners or lessees of park property would pay fee in lieu of tax (FILOT) payments.

In 2001, the Jasper County Council authorized the issuance of \$14M in special source revenue bonds and authorized payment of the bonds secured by earmarking 40% of net fee payments under the Park Agreement.

In 2006, Hardeeville - a city located in Jasper County - annexed part of the MCBP property into its jurisdictional limits.

In 2020, Jasper County sent a letter to Hardeeville stating that it had discovered Hardeeville's collection and retention of the total millage levy, with no portion going to Beaufort County or payment of the special source revenue bonds pursuant to the Park Agreement.

Hardeeville then commenced an action against Jasper County, seeking (1) a declaratory judgment with respect to its authority to levy and collect taxes and retain tax revenue without regard to the Park Agreement and (2) injunctive relief preventing Jasper County from collecting the alleged overpayment or negatively impacting Hardeeville's ability to impose a tax levy on the annexed property.

Jasper County answered and filed a cross-complaint seeking a declaratory judgment that all park property was subject to the Park Agreement and alleging unjust enrichment from Hardeeville's collection and retention of the total millage levy.

The Circuit Court held that: (1) the Park Agreement between Beaufort and Jasper counties was valid and in compliance with constitutional and statutory law; (2) Hardeeville's consent to the agreement was not required; and (4) all property in the MCBP, including the annexed property, was exempt from all ad valorem taxation.

Hardeeville appealed and the Court of Appeals affirmed.