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EXEMPT ORGANIZATIONS - COLORADO

Larimer County Board of Commissioners, et. al. v. Colorado Property Tax Administrator and YMCA of the Rockies

Colorado Court of Appeals, Div. V - April 11, 2013 - P.3d - 2013 COA 49

Court holds that Board of Assessment did not apply the proper legal standards when it denied a YMCA facility both religious purpose and charitable use tax exemptions.

The Young Men's Christian Association of the Rockies and the Colorado Property Tax Administrator appealed the Board of Assessment Appeals orders finding that the YMCA was not entitled to a charitable use exemption or a religious purposes exemption from property taxes, except for its chapels and religious activity center.

As to the religious purposes exemption, the court on appeals concluded that the Board did not apply the proper legal standards and, therefore, erred as a matter of law.

The majority of the Board's order identified evidence in the record related to the YMCA's application. However, in its analysis, the Board did not address the YMCA's declaration of religious purposes contained in its application, the effect of the declaration's presumed validity, or whether the presumption had been overcome. Because such declarations are presumptive with regard to the religious purposes for which property is used under section, the Board erred as a matter of law.

As to the charitable use exemption, the court of appeals again found that the Board did not apply the correct legal standards and thus erred as a matter of law.

In its order, the Board repeatedly said that it was applying a statutory presumption against exemption in this case. However, this presumption was not accurate in light of the applicable constitutional provisions and more recent supreme court authority. The Colorado Constitution provides that property that is used solely and exclusively for strictly charitable purposes shall be exempt from taxation. To that end, the court strictly construes what constitutes a charitable purpose but liberally construes the means used to achieve it.

Based on the record, the appeals court concluded that the Board did not properly consider whether the YMCA used the properties solely and exclusively for strictly charitable purposes.

The YMCA contended that remand was unnecessary because the relevant facts are undisputed, and that under the court of appeals' standard of review, it may conclude as a matter of law that the YMCA is entitled to one or both exemptions. Therefore, the YMCA asked the court to uphold the tax administrator's determinations.

Although it agreed that the Board did not apply the correct legal standards, it could not conclude that the tax administrator's findings necessarily should be reinstated. "These are complex applications that involve a significant amount of evidence and testimony." Moreover, both the religious purposes and charitable use exemptions allow for partial exemptions. Therefore, remand is necessary because the court could not make the factual findings required to review the tax

administrator's determinations.

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