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Wagner & Stoll, LLC v. City of Schenectady

Supreme Court, Appellate Division, Third Department, New York - June 13, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 04413

Plaintiff entered into a payment in lieu of taxes (PILOT) agreement with the City of Schenectady Industrial Development Agency with respect to certain real property that was exempt from real property taxes. Under the PILOT agreement, plaintiff was obligated to make annual payments to various taxing entities, including the Schenectady City School District, and the amount of those payments was based upon the assessment of the property as determined by the assessor of the City of Schenectady. Plaintiff later commenced two RPTL article 7 proceedings, alleging that the assessment was excessive and unequal. Plaintiff provided notice of both petitions to the school district. The school district did not move to intervene or otherwise appear in the proceedings at that time.

The Supreme Court subsequently issued an order memorializing a stipulation between the City and plaintiff to reduce the assessed value of the property. The order further required the City and various other taxing entities, including the school district, to refund to plaintiff "excess taxes" paid. The City thereafter refunded to plaintiff the excess amount that it was paid pursuant to the PILOT agreement. The school district, however, refused to make any refund to petitioner asserting, among other things, that "excess taxes" did not include payments made pursuant to the PILOT agreement.

Plaintiff sought an order to direct the school district to refund the excess payments made by plaintiff under the PILOT agreement. The court granted plaintiff's motion and directed the school district to refund to petitioner excess payments made under the PILOT agreement.