

# **Bond Case Briefs**

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## **SCHOOLS - OHIO**

### **Miami Trace Local School Dist. v. Washington C.H. City School Dist.**

**Court of Appeals of Ohio, Twelfth District, Fayette County - August 19, 2013 - Slip Copy - 2013 -Ohio- 3578**

Washington Court House School District (WCH) and Miami Trace School District (Miami Trace) reached an agreement regarding land transfer requests from persons who owned property within Miami Trace and wished to have it annexed into WCH. Miami Trace agreed to transfer properties to WCH in exchange for WCH's agreeing to pay Miami Trace 30 percent of the "net tax gain generated by the transfers." Four properties were transferred.

At the time the parties entered their transfer agreements, WCH only had an operating levy; it did not have a permanent improvement levy and had not passed a bond issue. After the last of the four agreements between the parties was reached in September 2001, WCH passed its first permanent improvement levy in 2002 and its first bond issue in 2005. WCH never made a payment to Miami Trace under any of the four agreements.

In 2010, Miami Trace, while working on an unrelated land transfer request, reviewed the four land transfer agreements with WCH and concluded that WCH owed a substantial amount of money under the terms of those agreements. Miami Trace arrived at this conclusion by interpreting the parties' agreements to mean that the 30-percent-payment provision in the parties' four agreements applies to the funds WCH receives from its permanent levy and bond issue, as well as its operating levy. However, when Miami Trace sought payment from WCH for these amounts, WCH refused on the ground that the 30-percent-payment provision applies only to the funds it receives from its operating levy.

In 2012, the trial court found that Miami Trace was entitled to prevail, and awarded \$94,213.36, because "[t]he clear and unambiguous language of all four agreements is that 'gross amount of taxes collected' includes operating levies, permanent levies and bond issues."

The appeals court reversed. "The spirit of these agreements is to compensate Miami Trace for any 'lost tax revenue' generated by the transfers. The parties' four agreements expressly limit the term 'net tax gain' to those that are 'generated by the transfers' in question. However, Miami Trace could not have any 'lost tax revenue' 'generated by the transfers' from taxes that did not exist at the time of the agreements. WCH's permanent improvement levy and bond issue do not fall within the term 'gross amount of taxes collected' because the permanent improvement levy and bond issue did not exist when these agreements were executed. The four land transfers in question were completed in 1993, 1996 and two more in 2001. WCH's permanent improvement levy was not passed until 2002 and its bond issue was not passed until 2005."

The court concluded that the trial court erred in determining that the 30-percent-payment provision applied to WCH's subsequently enacted permanent improvement levy and bond issue. It therefore modify the trial court's judgment by reducing the award granted to Miami Trace from \$94,213.36 to

\$5,839.42.