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Cnty. of Clark v. LB Props., Inc.

Supreme Court of Nevada - December 12, 2013 - P.3d - 129 Nev. Adv. Op. 96

Property owner sought judicial review of decision of Tax Commission upholding the county assessor's assessment of a remainder parcel for tax abatement purposes. The First Judicial District Court reversed. County and assessor appealed.

At issue was whether a regulation promulgated by the Nevada Tax Commission to value remainder parcels of real property for tax abatement purposes applied retroactively.

The Supreme Court, Pickering of Nevada held that:

- Tax Commission regulation to value remainder parcels was legislative regulation that applied prospectively only, and
- Valuation method used by county assessor was not impermissible "ad hoc standard."

Regulation promulgated by the Tax Commission to value remainder parcels of real property for tax abatement purposes constituted a "legislative regulation," rather than an "interpretive regulation," and therefore regulation did not apply retroactively, where regulation established a substantive rule for assessing and valuing remainder properties. It did not merely construe the meaning of the statute, and regulation's apportionment formula for valuing remainder parcels represented an explicit break from the approach taken by the assessor, which, in the absence of the regulation, considered generally applicable factors such as land size and shape and looked at the separate value of the individual piece.

County assessor's method used in determining valuation of remainder parcel for tax abatement purposes did not constitute an impermissible "ad hoc standard," where, in the absence of an applicable regulatory method of assessment, the assessor determined taxable value by calculating what the property would have been worth had it existed as a separate piece of land during the relevant tax year, and included consideration of factors such as size, shape, topography, and the value of comparable parcels.