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Tax Increment Financing - North Dakota

Haugland v. City of Bismarck

Supreme Court of North Dakota - March 14, 2014 - N.W.2d - 2014 ND 51

Objector brought declaratory judgment action seeking declaration that city's adoption and modifications of its urban renewal plan and use of tax increment financing to fund renewal projects in its renewal area violated the Urban Renewal Law and various provisions of the state and federal constitution. The District Court granted summary judgment in favor of city. Objector appealed and city cross-appealed. The Supreme Court of North Dakota affirmed in part, reversed in part, and remanded. On remand, the District Court granted summary judgment in favor of city. Objector appealed.

The Supreme Court of North Dakota held that:

- Genuine issue of material fact existed regarding whether city complied with statutory requirements for substantially modifying its urban renewal plan, and
- Pending authorized renewal projects existed within the renewal area to support continued diversion of property taxes from normal property tax recipients to city's tax increment financing fund.

Genuine issue of material fact existed regarding whether city complied with statutory requirements for substantially modifying its urban renewal plan, and therefore summary judgment in favor of city was precluded in objector's declaratory judgment action challenging city's modification of urban renewal plan. City was unable to locate and present documentation related to passage of resolution that modified urban renewal plan.

Pending authorized renewal projects existed within the renewal area to support continued diversion of property taxes from normal property tax recipients to city's tax increment financing fund, so as to comply with requirements of Urban Renewal Law for tax increment financing, where a quiet rail zone, a parking ramp, and an incentive program were authorized projects under the city's modified renewal plan, which had not been terminated and which authorized ongoing diversion of tax increment funds on an area wide approach.

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