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AETC II Privatized Housing, LLC v. Tom Green County Appraisal District

Court of Appeals of Texas, Austin - June 24, 2015 - Not Reported in S.W.3d - 2015 WL 3918619

AETC II Privatized Housing, LLC (AETC) provides multi-family housing for United States Military personnel and their families under the Military Housing Privatization Initiative (MHPI), which is aimed at attracting private capital and expertise to build much needed military family housing in a quick and cost effective manner. AETC is a public-private venture in which the U.S. owns 49% as an investor member.

In 2007, the parties entered into a ground lease whereby, for a nominal amount, the Air Force leased to AETC for fifty years a tract of land adjacent to Goodfellow Air Force Base located in Tom Green County, Texas (Tract G). The U.S. acquired Tract G by warranty deed from the city of San Angelo, and jurisdiction over the tract has not been ceded to the U.S. by the state. The Air Force conveyed title to the improvements on Tract G to AETC by quitclaim deed. The agreements called for AETC to renovate existing housing units, construct additional units, and operate and manage the units as rental property for Goodfellow personnel and their families. Beginning in 2010, the Tom Green County Appraisal District issued an appraised value for the improvements on Tract G. AETC filed a protest with the Tom Green County Appraisal Review Board challenging the valuation and seeking an exemption for the improvements as property owned by the U.S. The Review Board and the district court upheld the appraisals. AETC appealed.

The District Court noted that the issue of whether the improvements on Tract G are taxable depends on whether they are privately or publicly owned.

The Appraisal District asserted that the U.S.'s participation in AETC did not convey government ownership because under the law applicable to limited liability companies, members have no ownership in property owned by the LLC. AETC did not produce summary judgment evidence to raise a fact issue as to governmental ownership. Therefore, the District Court concluded that the trial court did not err in granting the Appraisal District's motion for summary judgment.