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Town of Rye v. Assessor of City of Rye

Supreme Court, Appellate Division, Second Department, New York - July 27, 2016 - N.Y.S.3d - 2016 WL 4007142 - 2016 N.Y. Slip Op. 05652

Town brought action against city to strike a real property tax assessment for town park from assessment roll of city.

The Supreme Court, Westchester County, granted town's motion for summary judgment and denied city's motion for summary judgment. City appealed.

The Supreme Court, Appellate Division, held that:

- Real Property Tax Law provision that exempted from taxation public parks not within a municipality's corporate limits if the governing board of the municipality in which the park was located agreed in writing to exemption applied to dispute, and
- Town was not entitled to exemption from taxation of town park.

Real Property Tax Law provision that exempted from taxation public parks not within a municipality's corporate limits if the governing board of the municipality in which the park was located agreed in writing to exemption applied to dispute between town and city regarding whether or not town park should be exempt from taxation, rather than Real Property Tax Law provision that automatically exempted real property owned by a municipality, held for public use, and within its corporate limits from taxation, where town park was located within corporate limits of city.

Town was not entitled to exemption from taxation of town park that was located within city's corporate limits, pursuant to Real Property Tax Law provision that exempted from taxation public parks not within a municipality's corporate limits if the governing board of the municipality in which the park was located agreed in writing to exemption, despite fact that city had exempted park from taxation in the past, where city's governing board never agreed in writing to exempt park from taxation.

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