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University Park at Evansdale, LLC v. Musick

Supreme Court of Appeals of West Virginia - October 26, 2016 - S.E.2d - 2016 WL 6407491

Taxpayer appealed decision of county commission, sitting as board of equalization and review (BER), which determined that taxpayer's protest to county assessor's assessment of its leasehold interest in property located on campus of State University was issue of taxability, rather than valuation, reviewable only by Tax Commissioner.

The Circuit Court denied petition for appeal. Taxpayer appealed.

The Supreme Court of Appeals held that taxpayer's challenge to assessment of its leasehold interest on the basis that leasehold purportedly did not have separate, independent value from freehold estate presented issue of valuation, rather than taxability, and thus was reviewable by BER, rather than by Tax Commissioner.

Although taxpayer alleged that leasehold's value was $0 resulting in lack of taxability, value of leasehold was threshold issue distinct from taxability, and taxpayer did not contend that its property was exempt from taxation.

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