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Voters with Facts v. City of Eau Claire

Court of Appeals of Wisconsin - May 31, 2017 - N.W.2d - 2017 WL 2349163 - 2017 WI App 35

Taxpayers brought declaratory judgment action against city, seeking declaratory judgment invalidating city's creation and amendment of tax increment districts (TID) to finance redevelopment.

The Circuit Court granted city's motion to dismiss on the basis that taxpayers lacked standing. Taxpayers appealed.

The Court of Appeals held that:

- Taxpayers failed to sufficiently allege that city failed to follow statutory requirements when approving creation and amendment of TID;
- Statute governing creation of TID precluded taxpayers' claim that TID area was not blighted;
- Taxpayer's challenge was cognizable on certiorari, rather than as a declaratory judgment claim;
- Taxpayers failed to sufficiently allege that city funds related to TID were used to pay for demolition of historic buildings;
- Taxpayers failed to sufficiently allege that reimbursements to developer violated uniformity clause of Wisconsin constitution; and
- Taxpayers failed to sufficiently allege that city's resolutions violated the public purpose doctrine.

Taxpayers failed to sufficiently allege that city failed to follow statutory requirements when approving creation and amendment of tax increment districts (TID) to allow tax increment financing (TIF) for redevelopment, as required to establish standing to assert declaratory judgment claim against city. While taxpayers alleged that city was incorrect in finding blight to support of creation of TID, statutory language merely imposed procedural hurdles to TIF use, which included approval of a TID by a democratically-accountable body who asserts the requisite findings.

Statute governing creation of tax increment districts (TID) by municipalities precluded taxpayers' declaratory judgment claim against city, based upon taxpayers' allegation that area city established as a TID was not blighted. City's determination as to whether area was blighted was a matter of its legislative discretion, a challenge to this finding in a declaratory judgment action would have resulted in factfinder substituting its judgment for that of city, and even if "blight" had been defined by an objective standard, language used in tax increment financing (TIF) statute did not require court to determine whether area was in fact blighted.

City's decision to establish tax increment district (TID) in area it concluded was affected by blight was cognizable on certiorari, rather than as a declaratory judgment claim. While city asserted that its legislative acts were immune from judicial review, statute governing creation of a TID did not expressly bar review, and certiorari review would have prevented lengthy and detailed discovery, constituted a speedy alternative to a declaratory judgment action, and would have prevented improper transfer of legislative power from city to courts.

Taxpayers failed to sufficiently allege that city funds related to tax increment district (TID) were used to pay for demolition of historic buildings, which was prohibited by statute, as required to establish that they had standing to bring declaratory judgment claim against city. Taxpayers' complaint did not allege anything unlawful had occurred, or was likely to occur, and alleged no facts connecting any past or future payment to the developer's action in demolishing historic buildings.

Taxpayers failed to sufficiently allege that city's reimbursements to developer performing project in tax increment district (TID) constituted an advance tax rebate or credit in violation of the Wisconsin constitution's uniformity clause, as required to establish standing on their declaratory judgment claim that city's expenditures were unlawful. Statute under which payments were made limited them to reimbursement for "project costs," which were defined to be those associated with a public work or improvement, so reimbursements did not require taxpayers to pay disproportionate amounts of taxes, nor did it change individual tax burden by granting a partial exemption, as taxpayers' allegations did not support characterizations of payments to developer as unlawful tax rebates or credits.

Taxpayers failed to sufficiently allege that city's resolutions, establishing and amending tax increment districts (TID), violated the public purpose doctrine, and thus taxpayers lacked standing to prosecute that constitutional claim in declaratory judgment action. While taxpayers asserted that establishment of TIDs did not serve to eliminate blight so they served a private rather than public purpose, tax increment law, and city's resolutions on their face, had a valid public purpose.

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