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Bay Harbor Marina Limited Partnership v. Erie County Board of Assessment Appeals

Commonwealth Court of Pennsylvania - January 10, 2018 - A.3d - 2018 WL 343816

Following board of assessment's denial of tax immunity and exempt status for marina lessees of port authority, lessees appealed and city and school district intervened.

The Court of Common Pleas granted summary judgment in favor of the board, city, and district. Lessees appealed, and appeals were consolidated.

The Commonwealth Court held that:

- Lessees had standing to challenge denial of tax immunity;
- Marina was not immune from taxation;
- Port authority was an indispensable or necessary party;
- Marina's use did not constitute public purpose; and
- Trial court, on remand, was required to determine if marina's public access areas were exempt.

Lessees of port authority had substantial, direct, and immediate interest in litigation regarding board of assessment's denial of lessees' tax immunity and exemption for leased property, and thus lessees had standing to challenge denials, where lessees, under terms of lease, were responsible for taxes imposed on leased property, board's denial triggered lease obligations, and lessees purportedly used leased property to further the port authority's authorized purposes.

Private gated marina leased from port authority operated for pleasure and recreational craft was not immune from taxation, since port authority's statutorily-mandated purpose did not expressly authorize operation of recreational marina.

Port authority was an indispensable or necessary party in action concerning tax immunity or exemption of marina port authority leased to private enterprise, although trial court removed port authority from case caption sua sponte, where port authority had joint interest in the subject matter of the action.

Private gated marina leased from port authority operated for pleasure and recreational craft did not constitute public purpose, and thus marina was not exempt from taxation, although marina had public access walking area and public boat launch, where marina inured to sole benefit of lessees and its subtenants who leased boat slips, public's limited access was mandated by zoning ordinance, and port authority had no control over marina.

Trial court, on remand, was required to examine each parcel and individual part of private gated marina leased from port authority operated for pleasure and recreational craft to determine if public access areas were exempt from taxation, since statute exempted public property used for public purposes.

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