

Bond Case Briefs

Municipal Finance Law Since 1971

TAX - INDIANA

Square 74 Associates LLC v. Marion County Assessor

Tax Court of Indiana - December 3, 2019 - N.E.3d - 2019 WL 6696247

Tenant of five commercial spaces appealed from determination by Indiana Board of Tax Review granting county assessor's motion to dismiss tenant's petitions for correction of errors in tax assessments, based on finding that purported errors in determination of leasehold interest were not objective errors that could be corrected in such proceeding.

The Tax Court held that:

- Lease did not objectively exclude land underneath ground-floor commercial spaces from leasehold;
- Statute governing assessment of leased, tax-exempt real property did not require exclusion of underlying land from assessment of leasehold; and
- Regulation governing assessment of improvements on leased ground did not require assessment of leasehold estates to exclude underlying land.

Lease defining tenant spaces, real estate taxes, and respective responsibilities of lessee and lessor did not objectively exclude land underneath ground-floor commercial spaces from leasehold, and, thus, county assessor's purported errors in assessing taxes against tenant based on land underneath commercial spaces could not be fixed by means of administrative process for correction of objective errors; lease did not directly state land was excluded or clarify whether land was among those "structural components" of overhead parking garage that were excluded from tenant's responsibilities.

Tax statute providing that when real property that is exempt from property taxation is leased to an entity that is not entitled to a property tax exemption, the leasehold estate is to be assessed and taxed as if the lessee owns the real property did not dictate conditions of lease creating leasehold estate, and, thus, did not require assessment of commercial leasehold of ground-floor spaces, which were owned by city, to exclude land beneath spaces; statute treated leasehold estate as synonymous with term "real property," such that it could include assessed value of land itself, building or fixture on land, appurtenance, or certain mining rights or mineral interests.

Regulation providing procedures for assessing improvements located on leased ground did not create per se rule that assessment of leasehold estates excludes the underlying land.