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[Obetz v. McClain](#)

Supreme Court of Ohio - May 20, 2021 - N.E.3d ----2021 WL 2004808 - 2021-Ohio-1706

After expiration of ordinance providing for a property tax exemption under a tax-increment-financing (TIF) arrangement, village applied for a tax-incentive-program exemption.

The tax commissioner denied the exemption for tax years 2015, 2016, and 2017 and the Board of Tax Appeals affirmed. Village appealed.

The Supreme Court held that:

- Village adequately preserved for appellate review its claim that the 2017 amendment to 1997 ordinance would permit an extension of the original property tax exemption under the 1997 ordinance from 16 to 30 years;
- Tax commissioner's entry did not extend the original property tax exemption once ordinance granting exemption had expired; and
- County auditor had the authority to retroactively remove property from the exempt list, and return the property to the tax list.

Village adequately preserved for appellate review its claim that the 2017 amendment to 1997 ordinance would permit an extension of the original property tax exemption under the 1997 ordinance from 16 to 30 years because the tax commissioner's 1999 entry had authorized a maximum 30-year exemption, even though village failed to specifically refer to the 1999 entry in its notice of appeal to the Board of Tax Appeals (BTA); amendment eliminated the requirement to "specify the errors," and village's notice of appeal, which contested the commissioner's finding that the 2017 ordinance created a new tax increment financing (TIF) exemption rather than amending the TIF exemption created by village in 1997 ordinance, gave fair notice of the issue on appeal.

The tax commissioner's entry, which granted property tax exemption based on tax-increment-financing (TIF) arrangement and provided that the exemption would continue for 30 years, even though ordinance stated the exemption would last for 16 years, did not extend the original property tax exemption once ordinance granting exemption had expired; the tax commissioner's entry granted the exemption "in accordance with the provisions of the municipal ordinance," the commissioner's entry did not permit village to retroactively reinstate exemption after it had expired.

County auditor had the authority to retroactively remove property from the exempt list, and return the property to the tax list, for tax years 2015 - 2017 at the tax commissioner's directive, even though the property was originally maintained it on the exempt list for 2015, 2016, and 2017; statute permitted the tax commissioner to revise at any time the list of exempt property in every county so no property was improperly or illegally exempted from taxation.

The tax commissioner was not estopped from denying the extension of the tax-increment-financing (TIF) property tax exemption for tax years 2015 - 2017; tax commissioner's entry initially granting TIF exemption in 1999 stated the exemption ended "on the earlier of thirty years from such date of

passage or the date on which the City can no longer require semiannual service payments in lieu of taxes,” and 1997 ordinance expressly provided that the exemption expired after 16 years.

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