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City of Hapeville v. Sylvan Airport Parking, LLC

Court of Appeals of Georgia - May 17, 2021 - S.E.2d - 2021 WL 1960195

Owner of real property brought action against city, mayor, and city council members, seeking declaratory and injunctive relief regarding city's threatened enforcement of occupational tax ordinance to prevent it from operating parking facility on parcel of land.

The trial court denied defendants' motion to dismiss, and defendant sought interlocutory review.

The Court of Appeals held that:

- Sovereign immunity was waived for purposes of property owner's claim for declaratory judgment against city and mayor and council members in their official capacities;
- Sovereign immunity barred claims for injunctive relief against city and mayor and council members in their official capacities;
- Sovereign immunity did not bar individual capacity claims against mayor and council members;
- Property owner stated claim for declaratory and injunctive relief against city's mayor and members of its council in their individual capacities; and
- Trial court did not err in failing to make factual findings in ruling on motion to dismiss based on sovereign immunity.

City's sovereign immunity, and that of mayor and city council members in their official capacities, was waived for purposes of property owner's claim for declaratory judgment with regard to the validity of city's occupational tax ordinance; statutory provision providing that, in any proceeding involving validity of municipal ordinance, municipality "shall be made a party" constituted waiver of sovereign immunity.

Sovereign immunity barred property owner's claims against city, and official capacity claims against mayor and city council members, to enjoin defendants from enforcing provision of city's occupational tax ordinance against it; statutory waiver of sovereign immunity did not apply because property owner did not seek to impose liability on municipal defendants.

Sovereign immunity did not bar property owner's claims against mayor and city council members in their individual capacities, seeking declaratory and injunctive relief regarding city's threatened enforcement of occupational tax ordinance to prevent it from operating parking facility on parcel of land; individual municipal defendants' contention that they were not real parties in interest had no merit, because relief sought be property owner would not alter title, possession, or usage of any real property of city or interfere with any city contracts.

Owner of real property stated claim for declaratory and injunctive relief against city's mayor and members of its council in their individual capacities, in which property owner challenged validity and threatened enforcement of city's occupational tax ordinance to prevent it from operating parking facility on parcel of land, where property owner alleged that city council was governing authority of city and was empowered to enact and implement land use regulations.

Trial court did not err in failing to make factual findings in ruling on motion to dismiss based on sovereign immunity, in property owner’s action against city, and mayor and city council members in their official capacities, where resolution of sovereign immunity claims did not involve any factual disputes.

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