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## **LAND USE & DEVELOPMENT - OKLAHOMA**

### **Immel v. Tulsa Public Facilities, Authority**

**Supreme Court of Oklahoma - June 22, 2021 - P.3d - 2021 WL 2548600 - 2021 OK 39**

Taxpayers brought action seeking declaratory judgment that city's public facilities authority and city could not sell 8.8 acres of park land to a prospective private developer for the construction of a commercial shopping center because the land was held in a public trust expressly as a park for the people.

The District Court granted authority's and city's motions for summary judgment. Taxpayers appealed.

The Supreme Court held that:

- Taxpayers had standing to bring action in equity, rather than qui tam, seeking declaratory judgment against authority and city;
- Authority and city were prohibited from selling tract of park to developer, unless the public use had been abandoned or the park had become unsuited for continued use;
- Factual issue existed as to whether tract of park had been lawfully abandoned, and as such relinquished, by authority and/or city, as would have authorized its sale without special legislative authority, thus, precluding summary judgment in taxpayers' action; and
- Factual issue existed as to whether the expenditure of public funds by authority and city, namely, sale of tract of park and allocation of tax funds for infrastructure development to same developer met the constitutional public purpose requirement for investment of public funds in private enterprises, thus, precluding summary judgment in taxpayers' action.

Taxpayers had standing to bring action in equity, rather than qui tam, seeking declaratory judgment that city's public facilities authority and city could not sell 8.8 acres of park land to a private developer for the construction of a commercial shopping center because the land was held in a public trust expressly as a park for the people; taxpayers asserted that the \$570,000 in city funds to be paid to prospective private developer would have been an illegal expenditure.

City's public facilities authority and city were prohibited from selling tract park to prospective private developer, unless the public use had been abandoned or the park had become unsuited for continued use, despite the fact that legal title had been transferred via a quit claim deed from city to a public trust; the park land was held by authority, a public trust, for the use and benefit of the citizens as a public park, the park land was held in a governmental capacity for use by the public, such that it could not be sold without special legislative authority, and it was undisputed that there was no special legislative authorization empowering authority and city to sell that tract of the park to a private developer for commercial use.

Genuine issue of material fact existed as to whether tract of park which city's public facilities authority and city was attempting to sell to private developer for construction of a commercial shopping center, had been lawfully abandoned, and as such relinquished, by authority and/or city, as would have authorized its sale without special legislative authority, thus, precluding summary

judgment in taxpayers' action seeking declaratory judgment that authority and city could not sell that tract to prospective private developer.

Genuine issue of material fact existed as to whether the expenditure of public funds by city public facilities authority and city, namely, sale of tract of park for 20% of its market value to private developer and allocation of a half million dollars in tax funds for infrastructure development to same developer met the constitutional public purpose requirement for investment of public funds in private enterprises, thus, precluding summary judgment in taxpayers' action seeking declaratory judgment that authority and city could not sell that tract to prospective private developer.

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