
TAX - DISTRICT OF COLUMBIA

Davis v. District of Columbia

District of Columbia Court of Appeals - September 16, 2021 - A.3d - 2021 WL 4203053

Former employee of District of Columbia Office of Tax and Revenue (OTR) brought action against District of Columbia, alleging that she was terminated for disclosing that method for appraising certain properties was wrong and perpetuating tax scam and seeking to hold District liable for her termination under the D.C. Whistleblower Protection Act.

The Superior Court granted summary judgment to District and denied former employee's motion to amend complaint. Former employee appealed.

The Court of Appeals held that:

- Disinterested observer could not have reasonably concluded that using cost method to assess commercial properties was gross mismanagement;
- Disinterested observer could not have reasonably concluded that using cost method was gross misuse or waste of public resources or funds; and
- Claim that former employee was wrongfully discharged in violation of public policy was futile.

Disinterested observer, with employee's knowledge of essential facts, could not have reasonably concluded that using cost method, rather than income method, to assess commercial properties in city was gross mismanagement, for purpose of determining whether disclosure by employee of District of Columbia Office of Tax and Revenue (OTR) that OTR's use of cost method to value property was wrong and costing District tax revenue was "protected disclosure" under D.C. Whistleblower Protection Act; employee did not identify authority that said cost approach could not appropriately be applied to properties that were fully depreciated but producing significant income, like those at issue, and evidence showed that valuations based on income approach were not much higher or more accurate predictors than cost-approach valuations.

Disinterested observer, with employee's knowledge of essential facts, could not have reasonably concluded that using cost method, rather than income method, to assess commercial properties in city was gross misuse or waste of public resources or funds, for purpose of determining whether disclosure by employee of District of Columbia Office of Tax and Revenue (OTR) that OTR's use of cost method to value property, was wrong and costing District tax revenue was "protected disclosure" under D.C. Whistleblower Protection Act, even though employee argued that OTR's use of cost method grossly wasted public funds by costing District millions in tax revenue; yet-to-be collected revenue, which was not in District's coffers, was not public resource or fund.

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