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TAX - NEW JERSEY

Erez Holdings Urban Renewal, LLC v. Director, Division of Taxation

Tax Court of New Jersey - February 1, 2022 - N.J.Tax - 2022 WL 303536

Taxpayer sought review of a determination from the Director of Division of Taxation, which affirmed township's imposition of a non-residential development fee to taxpayer's tax-exempt property.

The Tax Court held that:

- Tax Court would treat taxpayer's new claim as if it had been raised in its original pleading;
- Improvements to taxpayer's property exempt from local property taxes could not be valued at $0.00 for non-resident development fee purposes;
- Long-Term Tax Exemption Law could not be read in pari materia with Local Redevelopment Housing Law;
- Non-residential development fee statute could not be read in pari materia with mansion tax statute; and
- Tax Court was not required to evaluate evidence of value of property's site improvements.

Tax Court would treat taxpayer's new claim, that township's non-residential development fee was incorrect because its equalized assessed value for improvements did not exclude value of subject property's parking lot, as if it had been raised in taxpayer's original pleading under rules governing amended and supplemental pleadings, where neither township nor Director of Division of Taxation objected to taxpayer's ability to raise the new parking lot issue, and they agreed that the subject property was developed with a parking lot, these parking lots were exempt from non-residential development fee, and neither of them objected to proof being adduced in this connection, nor contended that doing so would be prejudicial to them.

Improvements to taxpayer's property could not be assessed a value of $0.00, for purposes of calculating non-residential development fee based on property's equalized assessed value on review of Director of Division of Taxation's affirmance of township's non-development fee calculation for improvements made to taxpayer's tax-exempt property under Long-Term Tax Exemption Law; exemption classification under Long-Term Tax Exemption Law simply identified that property was tax exempt in that there was no tax to be paid on assessed value, and while phrase "taxable value" could imply a $0.00 value, it was $0.00 in the sense that no tax was forthcoming from tax-exempt property, not that the property had a $0.00 value.

Long-Term Tax Exemption Law could not be read in pari materia with Local Redevelopment Housing Law, as would make equalized assessed value of improvements to property $0.00, on review of Director of Division of Taxation's affirmance of township's calculation of a non-residential development fee based on equalized assessed value; plain language of non-residential development fee statute controlled, and even if court were to consider Long-Term Tax Exemption Law and Local Redevelopment Housing Law as having the same goals, there was nothing explicit or implicit in either law that would assign a $0.00 value to a tax exempted improvement, or equating a tax

exemption to a $0.00 equalized assessed value.

Non-residential development fee statute could not be read pari materia with mansion tax statute, as would make equalized assessed value of improvements made to property $0.00, on review of Director of Division of Taxation's affirmance of township's non-resident development fee based on equalized assessed value of improvements made to tax-exempt property; there was no parity between the statutes, as the mansion tax statute was imposed to raise revenue for general state purposes, while non-residential development fee statute was to streamline imposition of development fees at a statewide level to fund affordable housing, and mansion tax was imposed based on status of grantee for income tax purposes, while non-residential development fee was not based on a tax-exempt status for income tax purposes.

Tax Court could not conclude value of land, and thus, it was not required to evaluate evidence of value of property's improvements in order to determine amount excluded for a parking lot from township's non-resident development fee based on land and improvements' equalized assessed value; even though taxpayer overcame presumptive correctness of township's valuation, it failed to show what the exemption amount for non-resident development fee should be as its valuation was based on a recent appraisal, rather than valuation at time taxpayer's general contractor submitted non-resident development fee form, and even if court were to consider vacant land comparables, it could not arrive at a meaningful value conclusion as it could not speculate adjustments for market conditions.

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