

Bond Case Briefs

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MJB Motels LLC v. County of Jefferson Board of Equalization

Supreme Court of Colorado - May 30, 2023 - P.3d - 2023 WL 3706206 - 2023 CO 26

Taxpayers, which owned commercial real property in county, brought action against county board of equalization and county assessor, alleging that pandemic and related government orders amounted to “unusual conditions” that required board to lower assessor’s property valuations and assessor to revalue properties.

The District Court dismissed complaint, and after the Court of Appeals moved for determination of jurisdiction, the Supreme Court granted motion and accepted jurisdiction.

The Supreme Court held that:

- COVID-19 pandemic was not “detrimental act of nature,” and
- Public health orders issued in response to pandemic did not constitute “regulations restricting the use of the land.”

COVID-19 pandemic was not “detrimental act of nature,” for purposes of statute that instructed tax assessors to revalue property before assessment date when unusual conditions in or related to real property, including detrimental acts of nature, would result in increase or decrease in actual value; COVID-19 was respiratory disease caused by novel coronavirus, such that it did not resemble natural events, including earthquakes, floods, and tornadoes, that were considered “acts of nature,” COVID-19 was not “in or related to real property,” given that while it might have infected people on property, it did not infect property itself, and COVID-19 did not directly affect use or availability of real property, had worldwide impact, and had duration that spanned years.

Public health orders issued in response to COVID-19 pandemic did not constitute “regulations restricting the use of the land,” and thus did not trigger revaluation of property pursuant to statute that instructed tax assessors to revalue property before assessment date where unusual conditions in or related to real property would result in increase or decrease in actual value; orders regulated operation of commercial activity on land, and not use of land itself, and examples provided in Assessors’ Reference Library (ARL) of regulations that increased or decreased use of land all involved changes to categorization of land that were intended to be permanent until and unless land was subsequently recategorized, while health orders at issue were intended to be temporary.