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Olympic and Georgia Partners, LLC v. County of Los Angeles

Supreme Court of California - August 28, 2025 - P.3d - 2025 WL 2473858 - 2025 Daily Journal D.A.R. 8392

Taxpayer, which was a hotel owner, sought review of property-tax assessment, which stemmed from dispute as to whether calculation of hotel's value should have excluded the subsidy that city paid to hotel owner, the one-time payment of "key money," which effectively was the equivalent of a price discount, that hotel owner received from companies that it hired to manage the hotel, and intangible "hotel enterprise" assets of goodwill, the workforce, and restaurant operations.

After a bench trial, the Superior Court, Los Angeles County, determined that the county's assessment appeals board was right to include the subsidy and the "key money" payment in its valuation, and remanded the issue of the "hotel enterprise" assets. Taxpayer and county appealed. The Court of Appeal affirmed in part, reversed in part, and remanded. Parties again appealed.

The Supreme Court held that:

- Nightly "occupancy tax" city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself and, thus, tax payments were properly included when determining hotel's assessed value for tax purposes;
- One-time "key money" payment that hotel's management company paid to original hotel developer in exchange for right to manage hotel and brand it as a company-related property for a 50-year period represented revenue from use of hotel itself and, thus, tax payments were properly included in income stream analysis when determining hotel's assessed value for tax purposes; and
- County assessor's failure to adequately address hotel owner's evidence as to valuation of "enterprise assets" derived from its management agreement with hotel management company required remand to county's assessment appeals board for further proceedings regarding valuation of those "enterprise assets."

Nightly "occupancy tax" city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel's enterprise activity, and, thus, tax payments were properly included when determining hotel's assessed value for tax purposes; hotel was developed pursuant to government-facilitated contractual rights, under parties' occupancy tax agreement, that enabled property to generate more revenue than it otherwise would have, rights were integral to economic viability of project and provided means by which properties were put to beneficial use, and tax payments were related not just to development of hotel but to its continued operation in way that was beneficial to city.

Nightly "occupancy tax" city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel's enterprise activity, and, thus, tax payments were properly included when determining hotel's assessed value for tax purposes, despite contention that parties' occupancy tax agreement could not be meaningfully distinguished from nonmarket lease that was

matter of owner's enterprise activity, and excludible from hotel's assessed value; there was distinction between owner negotiating lease on existing property, which was essentially a form of enterprise activity, and government-facilitated agreement that allowed property to generate elevated level of revenue as means of financing otherwise uneconomical, publicly beneficial project.

Nightly "occupancy tax" city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel's enterprise activity, and, thus, tax payments were properly included when determining hotel's assessed value for tax purposes, despite contention that tax should not be treated as income because underlying hotel development agreement made clear it could be transferred independent of hotel and did not run with land; assessor's duty in valuing hotel under income method was to calculate total earnings that could be derived from use of property, and whether hotel owner could theoretically choose to transfer some portion of those earnings to another entity did not alter the fact that the earnings were generated from use of property itself.

Nightly "occupancy tax" city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel's enterprise activity, and, thus, tax payments were properly included when determining hotel's assessed value for tax purposes, despite contention that parties' occupancy tax agreement was intended to finance of portion of construction costs of hotel; purpose of agreement did not dictate whether revenue generated from agreement could be considering in assessing value of hotel, and whether parties could have structured agreement differently did not alter fact that agreement they did make enabled property to be put to beneficial use as hotel, by allowing owner to generate additional revenue each time a customer rented a room.

One-time "key money" payment that hotel's management company paid to original hotel developer in exchange for right to manage hotel and brand it as a company-related property for a 50-year period represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel's enterprise activity, and, thus, tax payments were properly included in income stream analysis when determining hotel's assessed value for tax purposes; money paid by company to developer was closer in nature to a commercial lease between a landlord and tenant, as it was offered to secure tangible rights in property that company then used to conduct commercial activities that generated income of their own, and brand property with its corporate logo.

One-time "key money" payment that hotel's management company paid to original hotel developer in exchange for right to manage hotel and brand it as a company-related property for a 50-year period represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel's enterprise activity, and, thus, tax payments were properly included in income stream analysis when determining hotel's assessed value for tax purposes, despite contention that prospective buyer would never increase hotel's purchase price to reflect payment that future operations would never produce; payment represented fair market rate an owner of type of hotel would expect to receive in exchange for right to occupy and manage the property, and whatever restrictions parties might have entered into regarding payment were not material to determining hotel's unencumbered fair market value.

County assessor's failure to adequately address hotel owner's evidence as to valuation of "enterprise assets" derived from its management agreement with hotel management company, including customer goodwill, value of hotel's food and beverage operations and an assembled, stable workforce, required remand to county's assessment appeals board for further proceedings regarding valuation of those "enterprise assets"; while particular method of valuation identified in academic article might be appropriate to account for such intangible "enterprise assets" provided under agreement, since owner identified and valued nontaxable "enterprise assets," assessor had to

provide evidence the value of those assets did not exceed the management fees.

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