
Coates' Canons Blog: Tax Day at the N.C. Court of Appeals (Part 2)

By Chris McLaughlin

Article: <https://canons.sog.unc.edu/tax-day-at-the-n-c-court-of-appeals-part-2/>

This entry was posted on May 04, 2012 and is filed under Finance & Tax, Property Taxes

The Court of Appeals issued two opinions dealing with local taxes this week. In yesterday's post I analyzed the opinion concerning Fayetteville's privilege license taxes on internet sweepstakes. Today I analyze the opinion dealing with the denial of a property tax exemption application by Cabarrus County.

Late Property Tax Exemption Applications

The Machinery Act requires that most exemption and exclusion applications be submitted before the end of the listing period, which is usually January 31. GS 105-282.1 But that same statute allows counties to accept late applications through the end of the calendar year "upon a showing of good cause" by the applicant.

The term "good cause" is not defined, however, meaning that counties had a good bit of discretion when it came time to decide which late applications they accept and which they reject. Thanks to this week's Court of Appeals decision, that discretion is now limited.

The plaintiff was the David H. Murdock Research Institute ("DMRI"), non-profit scientific research corporation that owns the 300,000 square-foot David H. Murdock Core Laboratory on the North Carolina Research Campus in Kannapolis. This campus occupies the site that formerly housed Cannon Mills, which was at one time the largest manufacturer of sheets and towels in the world. David Murdock, the founder of Dole Foods, spearheaded the transformation of the mill into a world-class research site beginning in 2005.

The original plan was to fund much of the campus project through "tax increment financing." Under this approach, a local government borrows money to pay for public works projects in a blighted area in order to attract private investment in that area. The debt is paid off using the increased property tax revenue that (hopefully) arises from the private investment.

The tax increment financing plan was not implemented due to concerns about the market for public debt. But the preparations for this plan gave the county advance insight into the property tax issues involved with the campus, including the fact that DMRI was almost certainly exempt from local property taxes due to its status as a non-profit research and educational activities.

During its 2008 reappraisal, Cabarrus County valued DMRI's Core Laboratory at \$40 million for property taxes. This value would have produced a tax bill of nearly \$500,000. Despite the fact that the county was aware of DMRI's eligibility for a property tax exemption, the county included DMRI's \$500,000 tax liability in its 2008-09 budget.

One reason for this budgeting decision was the fact that DMRI missed the January 30 deadline for 2008-09 property tax exemption applications. Ten months later in December 2008, DMRI asked the county to consider its late application as permitted under GS 105-282.1(a1).

The county claims that DMRI never offered an explanation for why its application was late. DMRI claims it tried to do so but was interrupted by the county assessor, who recommended that the board deny the late application because "it could have serious budgetary implications." Regardless of what actually happened, the end result was that the board to accept DMRI's exemption application.

Remember that all parties agree that DMRI qualifies for an exemption from property taxes under GS 105-278.7 because it is a non-profit corporation that engages in educational and scientific endeavors. The county has since granted DMRI an

exemption for tax years 2009 and forward. The only point of contention between the county and the taxpayer is whether DMRI deserved a tax exemption for 2008-09 in light of its (very) late application.

DMRI appealed the county's refusal to consider its late application to the PTC, which ruled in favor of the taxpayer and ordered the county to exempt the laboratory for 2008 taxes. The county then appealed the PTC's decision to state court.

After much procedural hand-wringing, the Court of Appeals concluded that the county's decision to deny DMRI's late application was arbitrary and capricious and therefore illegal. According to the court, the county's only "feasible" reason for denying the application was the size of the property tax bill in question. In the court's eyes, the county refused to accept DMRI's late application simply because it did not want to lose the \$500,000 in tax revenues that were levied on the Core Laboratory.

What's more, according to evidence submitted by DMRI the county had accepted late applications 13 times in 2008 before it rejected DMRI's late application. The court concluded that "there is no reason DMRI's application should have been treated any differently" than any other late application.

Even though the facts are not flattering to the county, I am a bit surprised by the outcome. The court seemed too dismissive of the possibility that the county had good reason to hold DMRI to a higher standard for a late application than it might for other types of late applicants. I think it would be reasonable to expect a corporation that owns a \$40 million research lab to have a better understanding of its property tax obligations than does the "typical" late applicant.

Under the "good cause" standard, shouldn't it be acceptable for a county to accept a late application from an elderly and disabled homeowner who was unaware of the deadline for filing a homestead exemption application for her \$25,000 mobile home while at the same time rejecting a similarly late application from a multi-million dollar corporation?

In other situations in which the Machinery Act grants discretion to the county, appellate bodies have been much more deferential to county decisions. For example, when considering the appeal of a taxpayer who asked the county to waive its discovery penalties under GS 105-312 because it was only two days late in listing its property, the PTC said it must defer to the county's decision unless the taxpayer can show evidence of bias or discrimination. See *In re Popkin Bros. Enterprises, Inc.*, 90 P.T.C. 82 (Aug. 23, 1991). It seems to me that the same deference should be applied to the county's decision to reject a late exemption application.

But judges make the law, not me. I have a feeling that the result might have been different if a different taxpayer were involved. The court may have thought Cabarrus County should have been more considerate of David Murdock and his non-profit corporation in light of the many millions of dollars they are spending to reinvigorate the local economy. A classic example of "biting the hand that feeds you," perhaps?

It also didn't help that the county was intimately familiar with the property tax implications of the new research campus. DMRI was not a taxpayer new to the county, seeing as Murdock and his companies had been working closely with the county for years to redevelop the site. The court may have concluded that it was unreasonable for the county to have budgeted for \$500,000 in tax revenues from DMRI when the county knew all along that DMRI's facility would be exempt.

Regardless of the court's reasoning, the lessons of the case stand. From now on, if a county intends to reject a late exemption application it had best let the applicant explain why the application is late. And it also should enunciate a reason for rejecting the application that is not based on the dollar amount of the exemption.

Links

- canons.sog.unc.edu/?p=6638



-
- appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMS0xMjYzLTEucGRm
 - appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMS0xNDgwLTEucGRm
 - www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-282.1
 - www.dhmri.org/home.html
 - transforming-science.com/
 - sogpubs.unc.edu/electronicversions/pdfs/lfb36.pdf
 - www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-278.7