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CAVEAT

Recent Georgia Property Tax Cases

Ruth Cohen

Legal Affairs & Tax Policy

Specialized Tax Group

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Columbus Board of Tax Assessors et al. v. The Medical Center Hospital Authority

- Oct. 16, 2017, decision of Georgia Supreme Court.
- Began in May 2007 – lawsuit by the Medical Center Hospital Authority against the Columbus Board of Tax Assessors.



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The Lawsuit

- The Hospital Authority - seeking a declaration from the court that its leasehold interest in a building located on real property owned by a private entity constituted public property exempt from ad valorem taxation under O.C.G.A. § 48-5-41(a)(1).



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The Lower Courts' Decisions

- The superior court and the Court of Appeals:
 - The Hospital Authority's leasehold interest qualified as "public property" → thus was exempt from ad valorem property taxation.



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The Background

- Lease agreement between Columbus Regional Healthcare System, Inc. (lessor) and the Hospital Authority (lessee).
- Continuing care retirement center.
- Revenue bonds.



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The Background (continued)

- Bond validation orders – 2004 and 2007.
- Superior court validated the 2007 refinancing.
- Found that the project served a public purpose as contemplated under the Hospital Authorities Law.



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The Background (continued)

- Regarding the question of **taxability** – lower courts relied on the bond validation orders.
- Concluded that the Hospital Authority's property interest qualified as public property because the purposes for which the bonds were being issued were in furtherance of the public purposes for which the Hospital Authority was established → therefore, exempt from taxation.



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Georgia Supreme Court Decision

- The issue: whether the Hospital Authority holds the leasehold interest
 - For “public purposes . . . in the furtherance of the legitimate functions of the hospital authority,” OR
 - For “private gain or income.”



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Georgia Supreme Court Decision (cont.)

- However,
 - Just because the bonds issued were found to have a *public purpose* in 2004 and 2007, this does NOT necessarily mean that the *property* associated with the bonds is public property.
 - These are two separate questions.
 - The lower courts should have done a separate analysis instead of relying on the bond validation judgments.



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The Proper Analysis

- Property which is “owned by the State, or some political division thereof, and title to which is vested directly in the State, or one of its subordinate political divisions, or in some person holding exclusively for the benefit of the State, or a subordinate public corporation.”
Sigman v. Brunswick Port Auth., 214 Ga. 332, 335 (1958).



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The Proper Analysis (continued)

- When property is held not by the State itself, but instead by an instrumentality such as a hospital authority, whether it is “public property” depends on whether the instrumentality “holds title only for the benefit of the State and the public.” *Hosp. Auth. of Albany v. Stewart*, 226 Ga. 530, 537 (1970).



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Current Status of This Case

- Supreme Court remanded to Appeals Court.
- Appeals Court remanded to superior court.
(April 2018)
- To be determined....



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Hall County Bd. Of Tax Assessors v. **Westrec Properties et al.**

- Jan. 29, 2018, decision of Georgia Supreme Court.
- Five essentially identical appeals.
- Taxpayers were entities that operated marinas on Lake Lanier → located on property leased from the U.S. Army Corps of Engineers.



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The Background

- For the 2015 tax year, the Board of Tax Assessors revised its real property tax assessments to include the assessed value of docks and other improvements as part of the leasehold interest, rather than personalty, as in previous years.
- This increased the assessed values substantially (between 345% and 3,200%, according to taxpayers).



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The Background (continued)

- June 1, 2015 – Taxpayers appealed to Board of Equalization.
 - Assessments upheld after December 2015 hearings.
- Jan. 1, 2016 – New law went into effect.
 - Requires County Board of Tax Assessors to schedule a **settlement conference** in the event a taxpayer files a notice of appeal to the superior court.



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The Background (continued)

- Jan. 8, 2016 - Taxpayers filed with the Board their notices of appeal to the Superior Court of Hall County.
 - Board did not schedule settlement conference within 45 days.
 - Settlement conference later held in June, but parties did not agree on a fair market value.



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The Lower Court's Decision

- Revised version of O.C.G.A. § 48-5-311 (g)(2) applied to the parties & Board failed to comply.
- Summary judgment for taxpayers.
- Directed Board to enter the taxpayers' stated values, and valuation would carry forward.
- Taxpayers entitled to attorney fees.
- Statute is not unconstitutional, as Board argued.
- Board appealed.



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Constitutionality of O.C.G.A. § 48-5-311 (g)(2)

- Board argued that the Act is unconstitutional because violates the separation of powers clause.
 - Termination of the appeal for failure to schedule a settlement conference divests the superior court of jurisdiction after it has taken the appeal, which interferes with the superior court by taking away its power to decide a case pending in its court.



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Georgia Supreme Court Decision

- Affirms lower court's decision.
- The Act is constitutional.
 - “The requirements imposed by the Act do not remove a case from the jurisdiction of the superior court. Rather, they are part of an administrative procedure that, like many others, imposes threshold conditions before the appeal reaches the jurisdiction of the superior court.”



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Georgia Supreme Court Decision (cont.)

- The Act applies to these appeals even though the initial appeals to the Board of Equalization occurred in 2015, before the Act's effective date.
 - The Act does not provide for a single, unified appeal → lays out multiple administrative avenues for appealing the original tax assessment.
 - Appeal to superior court “shall constitute a de novo appeal.”



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Georgia Supreme Court Decision (cont.)

- The Act does provide a penalty for the Board's failure to send a notice of settlement conference.
 - The statute requires that, "[w]ithin 45 days of receipt of a taxpayer's notice of appeal and before certification of the appeal to the superior court, the county board of tax assessors shall send to the taxpayer notice that a settlement conference ... will be held at a specified date and time."
 - If at the end of 45 days, the Board "elects not to hold a settlement conference, then the appeal shall terminate and the taxpayer's stated value" is adopted.



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Coleman et al. v. Glynn County

- Jan. 22, 2018, decision of Court of Appeals of Georgia.
- Began in 2012– class action lawsuit by J. Matthew Coleman IV and Elizabeth Blair Coleman on behalf of themselves and all taxpayers similarly situated seeking refunds for taxes that were overpaid based on the county's incorrect application of a local homestead exemption.



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The Background

- In 2000 the Georgia legislature passed House Bills 1690 and 1691, which were local legislation providing the residents of Glynn County with a homestead exemption from ad valorem property taxes for county and school purposes.



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The Background (continued)

- The term “base year” as defined in the Act
 - “means the taxable year immediately preceding the taxable year in which the exemption under this Act is first granted to the most recent owner of such homestead.”



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The Background (continued)

- July 21, 2005, the Colemans purchased real property in Glynn County.
- Applied for the exemption on Feb. 1, 2006.
 - Application was granted in 2006, and the homestead exemption was in effect for the 2006 tax year. Glynn County used 2006 as the base year.
- Assessed value of the property in 2006 was \$133,800.
- Assessed value of the property in 2005 was \$70,006.



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The Lawsuits

- The Colemans filed refund requests.
- The County did not respond.
- The Colemans filed several class action lawsuits over the next several years.



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The Lower Court's Decision

- Glynn County properly applied the exemption and the Colemans' base year was properly determined to be 2006, reasoning that "the effective date of [the Colemans'] exemption was January 1, 2007."
- Three-year time limit also applied.



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The Appeals Court's Decision

- Act specifically defines the term “base year” as “the taxable year immediately preceding the taxable year in which the exemption under this Act is first granted to the most recent owner of such homestead.”
 - Colemans purchased their property in 2005.
 - Applied for and were granted the exemption in 2006, which was applicable for the 2006 tax year.
 - The correct base year is 2005.



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The Appeals Court's Decision (cont.)

- O.C.G.A. § 48-5-380 (b) limits taxpayer recovery to payments made within three years of a written claim for refund.
- Colemans filed a written request with Glynn County on November 10, 2011, so trial court correctly concluded that the Colemans are barred from recovering any overpaid taxes prior to 2008.



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The Appeals Court's Decision (cont.)

- Class members' three-year cutoff based on when the first class-action lawsuit was filed.
- Neither mandamus nor injunctive relief was available to circumvent the three-year time limit.



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Questions?