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2017 PROPERTY TAX CASES

And Attorney General's Opinions

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Cases

Valero Refining—Texas, L.P. v. Galveston Central Appraisal District
2017 WL 727276 (Tex. February 24, 2017)

Issues: Unequal appraisal

Valero owned one of three refineries in Galveston County. In 2011, the appraisal district appraised component parts of the refinery under several account numbers with a total value of just over \$1 billion. After a partially successful protest, Valero took its unequal-appraisal claims to court. Its original pleadings identified five accounts including process units, pollution-control equipment (PCE), and tank facilities. As the trial began, Valero amended its pleadings to remove two accounts, including the PCE. Its experts compared the disputed parts of its refinery with comparable parts of the two other refineries. One of those refineries was substantially larger than Valero's and the other was substantially smaller. The smaller refinery could not refine oil as completely as the larger two. The experts adjusted the appraised values based on the refineries' "equivalent distillation capacities." EDC measures a refinery's capacity and complexity. The experts then took the median appraised value per EDC and applied the value to Valero's refinery. They performed their calculations once without considering the refineries' PCE and once with the PCE included. When they included the PCE, their conclusion of an equalized value was substantially higher. The experts could not explain why Valero had dropped the PCE from its suit. They admitted that the PCE was necessary and that it would be included in the sale of a refinery. They performed an analysis that did not include the PCE just because that is what Valero asked them to do. Based upon their analysis that did not include the PCE, the jury lowered the value of the three accounts by almost \$190 million. The appraisal district appealed the trial court's judgment based on the jury's verdict.

On appeal, the district argued that because Valero had included only some of the refinery accounts in its suit, the trial court had no jurisdiction over the case. The court of appeals rejected that argument. The court of appeals, however, went on to conclude that Valero's evidence was not sufficient to support the jury's verdict. The court did not consider the validity of the method used by Valero's experts, and it thought that there was at least some evidence that the other refineries were comparable to Valero's. The

differences between the refineries could be dealt with through adjustments. The court, however, criticized the experts for preparing an analysis that did not include the PCE. The fact that Valero itself had dropped the account from its suit did not give the experts a reason for failing to consider it. The court of appeals overturned the trial court's judgment. Both sides asked the Texas Supreme Court to consider the case and the Court agreed.

The Supreme Court agreed that Valero did not need to include all accounts in order to invoke the trial court's jurisdiction. Because the district had divided the refinery into separate accounts, Valero was free to choose which accounts to include in its suit. The high Court thought that Valero's refinery could be compared to the smaller refinery. Properties do not have to be identical in order to be comparable. The court noted that both refineries served the same business purpose. The district had appraised them using similar methods and divided them into similar accounts. The district argued that the component parts of the refineries were to interconnected to be analyzed separately. The Court, however, thought that the district had undermined its own arguments by using multiple accounts. Because the district had separated the PCE into separate accounts, it had conceded that other parts of the refineries could be compared without reference to the PCE. The Supreme Court reversed the court of appeals and sent the case back to the intermediate court for further consideration.

In re Kelly

2017 WL 598498 (Bankr. N.D. Tex., February 14, 2017)

Issues: Redemption following tax sale; adverse possession

D. Realty purchased real property at a tax sale in 2014. Just before the two-year redemption period expired, Kelly tried to redeem the property. Kelly claimed that he had acquired the property through adverse possession and that he had been the owner at the time of the tax sale. D. Realty rejected Kelly's redemption efforts, and Kelly filed suit in the bankruptcy court in which his bankruptcy was being considered. He sought a declaration that he was an owner with a right of redemption and an order compelling D. Realty to cooperate with the redemption. The court had to decide whether the interest in the property that Kelly had acquired through adverse possession made him an owner with a right to redeem the property under §34.21 of the Tax Code.

The bankruptcy ruled for Kelly. The court cited §16.030 of the Civil Practice and Remedies Code, which says that someone who possesses a property adversely for the necessary time period acquires "full title" to the property. The adverse possessor has full title even without a court judgment and even without his recording any documents in the deed records. The court went on to explain that §34.22 of the Tax Code gives redemption rights to someone who was in possession of a property at the time that a delinquent-tax suit was filed or at the time of the tax sale and who claimed to own it, even if there was some defect in that person's title. Because Kelly was in possession of the property at the time of the tax sale, the statute gave him a right to redeem it.

Chambers v. San Augustine County Appraisal District

2017 WL 511892 (Tex. App. – Tyler, February 8, 2017, no pet. hist.) (to be published)

Issues: Mineral appraisals

Chambers signed an oil and gas lease on his land in Shelby County and retained a royalty interest in the minerals. The mineral interests in Chambers’s land were pooled with interests in land located in San Augustine County. The appraisal district in San Augustine County determined that there had been a cross-conveyance of the mineral interests resulting in Chambers owning taxable minerals in San Augustine County. Chambers disagreed and, after an unsuccessful protest, sued the district. The trial court entered a summary judgement for the district, and Chambers appealed.

The court of appeals reversed the trial court’s judgment. The higher court explained that the pooling of mineral interests ordinarily *does* effect a cross-conveyance. The particular contracts involved, however, may change that. In this case, Chamber’s lease expressly said that pooling “shall not have the effect of exchanging or transferring any interest under” the leases. The unit designations stated that they were made subject to the leases. Thus, given the particular language of the relevant documents, Chambers had not cross-conveyed any interests and had not acquired any taxable minerals in San Augustine County. The district should not have appraised any San Augustine County property in his name.

Attorney General’s Opinions