

TAX COURT OF NEW JERSEY

VITO L. BIANCO
JUDGE



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Via Fax and Regular Mail:

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Re: Newton West Ltd. v. Town of Newton
Appellate Docket No.: A-001976-15
Tax Court Docket Nos. 009612-2010; 006459-2012; 001887-2013

Dear Mr. Orlando and counsel:

This letter is issued pursuant to Rule 2:5-6(c) to amplify the court's bench decision and accompanying Order of December 4th, 2015, denying the motion of plaintiff, Newton West Ltd. ("Newton West") for judgment pursuant to N.J.S.A. 54:51A-8 ("Freeze Act") for tax years 2011 and 2012. Newton West moved for an order granting judgment pursuant to the Freeze Act for the said tax years based upon a 2010 Tax Court judgment, which, if granted, would have reduced the 2011 and 2012 assessments to \$8,400,000 for each year.

Newton West claimed that a reassessment conducted by the defendant municipality, Town of Newton (“Town”) in 2010 to be effective for tax year 2011, was not a *complete reassessment* and therefore application of the Freeze Act for the stated tax years was appropriate. The Town opposed the motion arguing that it had conducted a complete reassessment of all property within the district effective for tax year 2011, which negated the two-year conclusive effect of the 2010 judgment obtained by Newton West. The court heard oral argument from both parties and denied Newton West’s motion. The court concluded that the Town’s 2011 reassessment was indeed *complete*, and therefore, the application of the Freeze Act to tax years 2011 and 2012 was not appropriate.

The factual history of this case is as follows: On September 21, 2010, the Sussex County Board of Taxation (“Board”) held a public hearing, with testimony, and formally approved the Town’s application to conduct a municipal-wide assessment. The Board granted its approval, conditioned on the approval of the Director of the State Division of Taxation. On October 13, 2010, the Town adopted Resolution 179-2010, which authorized a “reassessment of all real property within the corporate boundaries of said municipality [Newton],” and declared the same to be a “*complete reassessment* of all real property within the Town of Newton.” (Emphasis added.) On October 20, 2010 the Division of Taxation notified the Board of its “signature of approval” on the proposed reassessment contract. On June 17, 2011, the Tax Court entered judgment reducing the 2010 real property tax assessment on Newton West’s property in the Town to \$8,400,000.

On November 21, 2014, Newton West filed Notice of Motion seeking judgment freezing assessments for the years 2011 and 2012 based upon the judgment for the year 2010. The Town timely filed opposing papers, arguing that the Freeze Act does not apply because the Town

performed a “complete reassessment” effective for tax year 2011.¹ On December 4th, 2015, the Court heard oral argument from both parties and denied Plaintiff’s motion.

N.J.S.A. 54:51A-8 (the Freeze Act) provides in pertinent part:

Where a judgment not subject to further appeal has been rendered by the Tax Court involving real property, the judgment shall be conclusive upon the municipal assessor and the taxing district, parties to the proceeding, for the assessment year and for the two assessment years succeeding the assessment year covered by the final judgment, except as to changes in the value of the property occurring after the assessment date. The conclusive and binding effect of the judgment shall terminate with the tax year immediately preceding the year in which a program for a complete revaluation or complete reassessment of all real property within the district has been put into effect.

[Id.]

“The Freeze Act does not apply where the taxing district has completed and adopted either a revaluation or reassessment program approved by a county board of taxation of which the taxpayer has notice within a reasonable time prior to the appeal deadline.” Ennis v. Alexandria Tp. (Hunterdon County), 13 N.J. Tax 423 (1993).

The Freeze Act does not define the word “complete” as it relates to reassessments. However, the Division of Taxation has promulgated regulations setting forth the requirements that must be met by a municipality when an assessor is proposing to implement a district-wide reassessment, codified at N.J.A.C. 18:12A-1.14(c)(3). Newton West contends that the 2011 reassessment was not a complete reassessment, and thus the exception to the Freeze Act does not apply. Although Newton West argues that the Town has failed to satisfy the requirements as set forth by the regulations, it should be noted that the final step under the regulation states,

¹ In fact, on August 3, 2011, based on the data and information derived from the Town’s “complete reassessment,” the Municipal Assessor generated a “Ratable Analysis After 2010 Assessment” and a “Newton Projected Commercial Assessments.”

Within 45 days of receipt of the application from the assessor, the Director shall advise the county tax administrator and assessor of his or her determination as to whether the assessor may proceed with the reassessment program. In the case of disapproval, the Director shall specify the reason for his or her determination.

[N.J.A.C. 18:12A-1.14(c)(3)]

Here, the evidence demonstrates that the Town has satisfied the preconditions necessary for its 2011 complete reassessment to meet the Act's requirements: a public hearing with testimony was held, the Board formally approved the Town's application to conduct the reassessment, the Town adopted a formal Resolution authorizing the reassessment, and the Director of the Division of Taxation sent its "signature of approval" on the proposed complete reassessment contract with Appraisal Systems, Inc. In addition, the regulations dictate that Director approval is the final step in the list of requirements. In this case, the Director had already notified the Board of its approval in 2010, and therefore, the Town had already satisfied the other requisite steps.

In conclusion, this court correctly determined that the Town's 2011 reassessment was complete, which accordingly negates the application of the Freeze Act to Newton West's property for tax years 2011 and 2012. Newton West's motion was appropriately denied.

Very truly yours,

SS//Vito L. Bianco, J.T.C.

Hon. Vito L. Bianco, J.T.C.

VLB/KY:tms