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Summary of County of Clark v. Howard Hughes Co., LLC, 129 Nev. Adv. Op. 44

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VENUE – PROPERTY TAX APPEALS

Summary

Appeal from a district court order denying a motion for change of venue for a petition for judicial review of a State Board of Equalization decision regarding a property tax valuation.

Disposition/Outcome

The Court affirmed the District Court’s denial of the motion to change venue.

Factual and Procedural History

Respondent, Howard Hughes Company, LLC (Howard Hughes), owns four parcels of land known as Summerlin West located within Clark County. Dissatisfied with the County Assessor’s valuation of the property for tax year 2011-2012, Howard Hughes challenged its assessment before the Clark County Board of Equalization, which lowered the valuation substantially. Subsequently, Clark County appealed the revised assessment to the State Board of Equalization, which, in turn, increased the valuation. Following this, and pursuant to NRS 361.420, Howard Hughes filed a petition for judicial review with the First Judicial District Court in Carson City naming Clark County, the Clark County Assessor, and the State Board of Equalization as co-defendants.

Clark County filed a motion for a change of venue, arguing that the action should be maintained in the Eighth Judicial District Court in Clark County. They argued that NRS 13.030(1) mandates that all actions against a county are to take place within the district court that encompasses that county. Howard Hughes filed an opposition to the motion which argued that NRS 361.420(2) specifically provides that petitions for judicial review of a decision of the State Board of Equalization may be commenced “in any court of competent jurisdiction in the State of Nevada against the State and county in which the taxes were paid.”² The district court denied the motion. Clark County appealed.

Discussion

Justice Cherry delivered the opinion of the three justice panel.³

The Court first noted that protesting property owners from counties throughout the state have often challenged their property tax assessments in the First Judicial District Court in Carson City.⁴ Applying de novo review to the district court’s decision, the Court looked to the long-

¹ By David H. Rigdon.

² NEV. REV. STAT. § 361.420(2) (2011).

³ The case was decided by the northern panel which includes J. Cherry, J. Hardesty, and J. Parraguirre.

⁴ See, e.g., *Washoe Cnty. v. Otto*, 128 Nev. ___, 282 P.3d 719 (2012).

standing rule of statutory construction that where a specific and general statute conflict, “the specific statute will take precedence.”⁵

NRS 361.420(2) provides that an aggrieved property owner may file a petition for judicial review “in any court of competent jurisdiction in the State of Nevada against the State and county in which the taxes were paid.”⁶ By contrast, NRS 13.030(1) states that “[a]ctions against a county may be commenced in the district court of the judicial district embracing the [defendant] county.”⁷ The court concluded that NRS 13.030(1) is a general venue statute which does not address venue for property tax valuation actions⁸ while NRS 361.420(2) is specific to the subject of property tax valuations. Therefore, NRS 361.420(2) is the controlling statute. Since the First Judicial District Court in Carson City is a court of competent jurisdiction in Nevada, it is an appropriate venue for the action.

Conclusion

NRS 361.420(2) specifically provides that a petition for judicial review of a State Board of Equalization property tax determination may be commenced “in any court of competent jurisdiction in the State of Nevada against the State and county in which the taxes were paid.”⁹ Howard Hughes’ decision to file their petition in the First Judicial District Court in Carson City, and the district court’s subsequent denial of Clark County’s motion for change of venue, was appropriate notwithstanding the general venue provision of NRS 13.030(1).

⁵ Anderson Family Assoc. v. State Eng’r, 124 Nev. 182, 187, 179 P.3d 1201, 1204 (2008).

⁶ NEV. REV. STAT. § 361.420(2) (2011).

⁷ NEV. REV. STAT. § 13.030(1) (2011).

⁸ See In re State Eng’r Ruling No. 5823, 128 Nev. ___, ___, 277 P.3d 449, 457 (2012) (including NRS 13.030 in a discussion of general venue statutes).

⁹ NEV. REV. STAT. § 361.420(2) (2011).