STATEHOUSE REPORT

Published by: County Commissioners Association of Ohio

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August 23, 2024

Ohio Supreme Court makes ruling in Nexus pipeline case about county appeals of Department of Taxation settlements

On Tuesday, the Supreme Court of Ohio ruled in *Snodgrass v. Harris* that the right of counties to appeal Department of Taxation determinations does not apply to arms-length settlement agreements between the department and public utility owners of capitalized infrastructure.

Case Background

The case arose over the valuation of the Nexus Gas Transmission pipeline, a natural gas pipeline running through 12 counties on its way to Detroit and Canada. The Department of Taxation valued the infrastructure at $1.6 billion while the company assessed it at $616 million. The company appealed to the Board of Tax Appeals, but before the BTA decided, the department and company reached a settlement for a valuation of $950 million, with adjusted valuations in subsequent years.

The Lorain County Auditor appealed the settlement to the BTA, arguing that the department didn't follow the proper statutory criteria in reaching its valuation (R.C. 5727.11). The BTA cited a different provision of the Revised Code (R.C. 5703.05) that states that the department has "authority provided by law relative to consenting to the compromise and settlement of tax claims." The Board also rejected the Lorain County Auditor's appeal on procedural grounds based on the auditor not intervening in the company's original appeal.

The Lorain County Auditor then appealed to the Supreme Court.

Supreme Court's Ruling

In a 4-3 decision, the Supreme Court ruled that while county auditors can appeal the result reached through a settlement between the Department of Taxation and a company, it may only do so in claims of "fraud, duress, overreaching, undue influence, or disputes over the meaning or application of the settlement's terms". The substance of the settlement and its terms is not appealable.

The Court upheld the valuation agreement in the settlement. In doing so, the Court held that tax commissioner settlements are an adjudication of last result.

Dissent

The justices in the minority wrote a dissenting opinion (begins at page 11 of the link above) which states that the majority's opinion may have the effect of ending county auditor appeal rights if the Tax Department opts to solely seek unrepealable settlements with companies regarding infrastructure.

The minority also encourages the General Assembly to clarify the appealability of Department of Taxation's valuation settlements.