

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



In the Matter of Catskill Watershed Corporation v Assessor of the Town of Middletown et al., 2023 NY Slip Op 0305

State of New York Supreme Court Appellate Division, Third Department, Garry, P.J., Aarons, Pritzker, Ceresia, Fisher JJ, 8 June 2023

Whether a watershed management corporation was entitled to property tax exemption.

Key words: Tax, United States of America, Appeal, Real Property Tax, Exemption

1. The judgment was delivered by Fisher J on behalf of the Court.
2. This was an appeal from a judgment of the Supreme Court about the assessment of a real property tax exemption.
3. Catskill Watershed Corporation (the Corporation) is a local development corporation organized for several charitable and public purposes, predominantly including the protection of water quality in the portion of New York City's (the City) drinking water supply located in the West of the Hudson Watershed (the Watershed).
4. The Corporation came into existence as the result of a litigation settlement to administer the watershed management program that the City was required to maintain, which included various watershed control projects and initiatives to protect the surface water from contamination pursuant to a memorandum of understanding between the upstate communities in the Watershed, and City, state and federal officials (MOU). The City was able to avoid filtering the surface water supply at great expense by adhering to certain criteria and complying with prescribed requirements contained in an extensive watershed management program.
5. The Corporation was recognized as a tax-exempt charitable entity under federal law ([Internal Revenue Code \[26 USC\] § 501 \[c\] \[3\]](#)).
6. The Corporation purchased a property for its headquarters, an office suite leased to the New York City Department of Environmental Protection (DEP), and an area leased to the Catskill Discovery Center that functions as an educational centre and museum.
7. A municipal tax assessor partially granted property tax exemption, but not to the part of the property as it related to the area leased by DEP.
8. The matter was put before the Supreme Court, which found that the Corporation's use of the property was for charitable purposes.

9. This finding was appealed in this case.
10. The municipal tax assessor argued that although the watershed management programs may provide a public benefit, the overall use of the property was not for a charitable purpose because it was used for managing programs with the sole goal of avoiding an estimated \$10 billion capital cost and \$100 million annual operating cost of a water filtration plant for the City.
11. The property tax legislation provides that an applicant for exemption must be organized exclusively for the purposes enumerated in the statute, the property in question must be used primarily for the furtherance of such purposes, no pecuniary profit, apart from reasonable compensation, may inure to the benefit of any officers, members, or employees, and it may not be simply used as a guise for profit-making operations.
12. The term “exclusively” had been interpreted to mean the "principal" or "primary" purpose.
13. The Appeal Court noted that (at page six]):

[E]ven though a property may very well provide a laudable "public benefit," where the overall use is "to further economic development and lessen the burdens of government, [such use] cannot be deemed 'charitable'.
14. The Appeal Court further found that section 501 (c) (3) status of the Corporation, by itself, does not create a presumption that the entity is entitled to a tax exemption under the property tax legislation.
15. The Appeal Court found that the Corporation’s activities on the property were not charitable and returned the matter for further consideration by the initial Court.

COMMENT



The Catskill Delaware Watershed spans five counties which include Delaware, Greene, Schoharie, Sullivan, and Ulster. Throughout the 1,597 square mile watershed, six reservoirs (Ashokan, Cannonsville, Neversink, Pepacton, Rondout, and Schoharie) provide 90% of the daily drinking water to 9.8 million residents in New York State.

VIEW THE CASE



This case may be viewed at: https://www.nycourts.gov/reporter/3dseries/2023/2023_03055.htm

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Date of creation: June 2023

Number of case: 2023-79

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ACPNS acknowledges the funding assistance of Our Community to produce the ACPNS Legal Case Notes Series.



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