



Portfolio Media, Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Minn. Tax Court Says Shingle Factory Overvalued By Millions

By Eric Kroh

Law360, New York (July 13, 2015, 4:13 PM ET) -- The Minnesota Tax Court has ruled that an asphalt shingle producer is due a refund of property taxes paid on a manufacturing facility, saying there was no evidence that the property is for special use and that it was overvalued by several million dollars for four years.

Judge Thomas G. Haluska said Thursday that Certain Teed Corp. had met its burden in showing that the Scott County assessor had overvalued the property and that there was no support for the county's view that the property is a special use property subject to higher taxation.

"Special purpose property is property that is treated in the market as as adapted to or designed for a special purpose," Judge Haluska said in the court's order. However, "both Certain Teed's assessor and property manager provided clear and creditable testimony that the property could easily be converted to alternative uses and identified the market for those uses."

Certain Teed was challenging the assessments for the years 2010 through 2013. In those years, the county assessor said the property was worth from about \$13 million to \$16 million, while Certain Teed contended the true value was about \$10 million.

Under a property value analysis that considers the highest and best use of the property, the valuation considers the "most profitable, competitive use to which the subject property can be put," Judge Haluska said. Both Certain Teed and Scott County agreed that the property's best use was for heavy industrial manufacturing, but the county asserted it was a special-use property that cannot be readily converted to other uses without a significant capital investment.

The county assessor, however, provided no support for that assertion and admitted he made it without even performing an analysis, Judge Haluska said. The county, attempting to salvage the argument, said the property was not likely to be sold on the market because of its unique nature, but there is no evidence that is the case, the judge said.

The court also agreed with Certain Teed that 18.7 acres of land on the property is excess land that must be valued separately. The county argued that Certain Teed used some of the land for outside storage and therefore it was not excess land, but Judge Haluska said that argument was misguided because incidental use of a property for storage does not affect its highest or best use.

Judge Haluska ordered that the market values of the property for the years in question be changed to about \$9 million to \$10 million, in line with Certain Teed's proposed values,

and that the excess property taxes paid by the company be refunded.

Representatives of the parties could not immediately be reached for comment.

Certain Teed Corp. is represented by Nicholas A. Furia.

The County of Scott is represented by Steven R. Ott.

The case is Certain Teed Corp. v. County of Scott, file numbers 11-8148, 11-24964, 13-8725 and 14-5741, in the Minnesota Tax Court.

--Editing by Patricia K. Cole.

All Content © 2003-2015, Portfolio Media, Inc.