MCMICHAEL ARGUES IN MO. SUPREME COURT SOLAR ENERGY ASSESSMENT APPEAL

Posted on June 10, 2022 by Zachary R. McMichael



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On May 24, 2022, Zachary R. McMichael argued in front of the Supreme Court of Missouri in *Johnson, et al. v. Springfield Solar 1, LLC*. The case explores the power of the Missouri legislature to exempt solar power facilities from personal property tax and whether an assessor is required to apply a statute that he or she believes is facially unconstitutional.

Background

SS SCS HB 142 — UTILITIES - The bill adds **solar systems not held for resale** to the list of property and items that are exempt from taxation for state, county, or local purposes under Section 137.100 (10), RSMo.In 2014, Springfield Solar 1, LLC installed a solar energy generation facility (the "Equipment") in Greene County, Missouri, on property owned by the City Utilities of Springfield. This installation was reliant on a Missouri statute that exempts "solar systems not held for resale" from property taxes. Despite this statute, the Assessor for Greene County assessed Springfield Solar's Equipment and denied its request for an exemption. Springfield Solar appealed this assessment to the Missouri State Tax Commission ("STC").

Before the STC, the Assessor attempted to defend his assessments by arguing that:

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1. the Equipment was not a "solar system not held for resale" and;
2. that the statute was unconstitutional.

MO Const art X § 6The state tax commission **found the system was not held for resale and, therefore, was exempt** under section 137.100 (10). In addition, STC found it lacked jurisdiction to entertain whether or not section 137.100 (10) violates Article X, Section 6 of the Missouri Constitution.

MO Const art X § 4(a)
MO Const art X § 4(b)The Assessor appealed to the Circuit Court of Greene County, which **held that the statute was a proper exercise of legislative power** under Article X, Sections 4 (a) and 4 (b) to the Constitution, concluded that the Assessor's tax assessments against Springfield Solar were void, and dismissed the remaining counts.

Even if it was unconstitutional, the Assessor exceeded his authority when he assessed the Equipment before a Court ruled the statute unconstitutional. The Assessor appealed to the Supreme Court of Missouri.

From Law360: Mo. Supreme Court Should Uphold Solar Exemption, Co. Says.

> *"The Missouri Supreme Court should uphold a lower court ruling exempting a company's solar panels from ad valorem tax and denying the county assessor's claims that the exemption is unconstitutional, the company told the court during oral arguments on Tuesday."*

The case is Brent Johnson, in His Official Capacity as the Assessor for Greene County, Missouri, and Greene County, Missouri v. Springfield Solar 1 LLC. Zachary R. McMichael of Capes Sokol represented Springfield Solar.

Listen to the oral argument: SC99441 MP3 file

- County Brief
- Springfield Solar Brief
- County Reply Brief

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