Turner v. Commissioner, 136 T. C. 306 (U. S. Tax Court 2011)

In Turner v. Commissioner, the U. S. Tax Court ruled that petitioners James and Paula Turner were not entitled to a $342,781 charitable contribution deduction for a conservation easement on their 29. 3-acre property in Fairfax County, Virginia. The court found that the easement did not meet the statutory requirements for a qualified conservation contribution under Section 170(h) of the Internal Revenue Code. Specifically, the easement failed to preserve open space or historically significant land. Additionally, the Turners were found liable for a negligence penalty under Section 6662 due to their reliance on an appraisal based on false assumptions about the property's development potential.

Parties

Petitioners: James D. Turner and Paula J. Turner, husband and wife, who filed a joint federal income tax return for the year in issue. Respondent: Commissioner of Internal Revenue.

Facts

James D. Turner, an attorney specializing in real estate transactions, was a 60-percent member and general manager of FAC Co. , L. C. (FAC), which aimed to acquire, rezone, and develop real property in Woodlawn Heights, Fairfax County, Virginia. The property in question, known as the Grist Mill property, was located near historical sites including President George Washington's Grist Mill and Mount Vernon. The property included a 15. 04-acre floodplain, which was undevelopable. Turner and FAC acquired several parcels, including a 5. 9-acre lot from the Future Farmers of America (FFA) with a commercial building and four lots adjacent to the Grist Mill.

Turner's plan was to develop the Grist Mill property into a residential subdivision, Grist Mill Woods, with a maximum of 30 lots under the existing R-2 zoning. Despite this, Turner claimed a charitable contribution deduction for a conservation easement on the property, asserting that he had given up the right to develop 60 lots. The conservation easement deed, executed on December 6, 1999, and recorded the following day, purported to limit development to 30 lots to preserve the historical nature of the area. The easement was valued at $3,120,000, based on an appraisal that assumed the entire property, including the floodplain, could be developed.

Procedural History

The Commissioner of Internal Revenue determined a $178,168 income tax deficiency and a $56,537 accuracy-related penalty for the Turners' 1999 taxable year. The Turners contested these determinations in the U. S. Tax Court. After concessions by both parties, the remaining issues were the validity of the

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conservation easement deduction and the applicability of the accuracy-related penalty. The Tax Court, applying a de novo standard of review, held that the Turners were not entitled to the deduction and were liable for the penalty.

Issue(s)

Whether the Turners made a contribution of a qualified conservation easement under Section 170(h)(1) of the Internal Revenue Code? Whether the Turners are liable for an accuracy-related penalty under Section 6662 due to negligence or substantial understatement of income tax?

Rule(s) of Law

A contribution of real property may constitute a qualified conservation contribution if: (1) the real property is a "qualified real property interest"; (2) the donee is a "qualified organization"; and (3) the contribution is "exclusively for conservation purposes. " Section 170(h)(1). A qualified real property interest must consist of the donor's entire interest in real property or a restriction granted in perpetuity concerning the use of the property. Section 170(h)(2). A contribution is for a conservation purpose if it preserves land for public recreation or education, protects a natural habitat, preserves open space, or preserves a historically important land area or certified historic structure. Section 170(h)(4)(A). The accuracy-related penalty under Section 6662 applies if an underpayment is due to negligence or substantial understatement of income tax.

Holding

The U. S. Tax Court held that the Turners did not make a qualified conservation contribution under Section 170(h)(1) because the easement did not satisfy the conservation purpose requirement of Section 170(h)(4)(A). The court further held that the Turners were liable for the accuracy-related penalty under Section 6662 due to negligence.

Reasoning

The court analyzed the conservation easement's compliance with Section 170(h) by focusing on the open space and historic preservation requirements. For the open space requirement, the court noted that the easement did not preserve open space because it did not limit development beyond what was already restricted by the existing R-2 zoning and floodplain designation. The court rejected the Turners' argument that limiting development to 30 lots instead of 62 created open space, as the easement did not restrict the size or height of the homes or prohibit rezoning for denser development.

Regarding the historic preservation requirement, the court found that the easement did not preserve a historically important land area or certified historic structure. The Grist Mill property was only historically significant due to its proximity to other

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historical sites, and the easement did not preserve any historical structure on the property itself. The court also noted that the easement did not protect the natural state of the land, which was the historical characteristic the surrounding sites sought to preserve.

The court further reasoned that the Turners were liable for the accuracy-related penalty under Section 6662 due to negligence. The court found that the Turners relied on an appraisal that falsely assumed the entire property, including the floodplain, could be developed. This assumption was known to be false by the Turners at the time of filing their return, demonstrating a lack of due care and reasonable attempt to comply with the tax code.

Disposition

The court sustained the Commissioner's determination of the income tax deficiency and the accuracy-related penalty under Section 6662. A decision was to be entered under Tax Court Rule 155.

Significance/Impact

Turner v. Commissioner underscores the strict requirements for claiming a qualified conservation easement deduction under Section 170(h). The case highlights that a conservation easement must provide a tangible public benefit beyond what is already mandated by zoning or other regulations. It also serves as a cautionary tale about the importance of accurate appraisals and the potential consequences of relying on false assumptions in tax filings. The decision reinforces the IRS's authority to impose accuracy-related penalties for negligence, even when taxpayers claim to have relied on professional advice. Subsequent cases have cited Turner to clarify the standards for conservation easement deductions and the application of penalties for tax misstatements.

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