

**Private Property Owners Not Entitled to Property Tax Exemptions
for Office Space Leased to State Community Colleges**

Supreme Court of Ohio
Decided December 2, 2014

Who owns the land? The answer to that question turns out to be a critical factor in determining whether a building used by a college or university receives an exemption from real property taxes.

*Equity Dublin*¹ analyzes the public-college property tax exemption in a situation where a college leased space in an office building, not located on its campus, from a for-profit landlord. Analyzing the public-college exemption, the Supreme Court of Ohio denied an exemption, in the most simplified terms, for the reason that *the college did not own the land*.

The public-college exemption statute² states that “Public colleges and academies and all buildings connected with them, and all lands connected with public institutions of learning, not used with a view to profit . . .” shall be exempt from taxation. The main issue boils down to the court’s interpretation of the word *connected* and whether it extends to buildings not owned by or located on the college campus, but leased by and used as a branch of a college. Unfortunately for the property owners in this case, the court defined *connected* as meaning “both the use of the buildings *and* their presence on the [college] campus.”

In *Equity Dublin*, Columbus State Community College leased space in office buildings from two separate landlords – one in Dublin, the other in Columbus. One facility serviced an annual enrollment of 1,490 students and offered a full array of courses while the other building had an enrollment of 490 students. Both property owners sought an exemption for the square-footage of the respective buildings that was leased by Columbus State as well as portions of the parking lots.

Initially, the Tax Commissioner denied the respective landlords’ applications stating that the properties were not exempt under the public-college tax exemption.

Each property owner appealed to the Board of Tax Appeals (“BTA”) where the cases were consolidated. The BTA partially reversed the Tax Commissioner’s decisions by holding that the public-college tax exemption actually did apply to leased building space, but not to the parking lots. Thus, the BTA concluded that the space leased to Columbus State in each building was tax exempt.

The Tax Commissioner and local school districts all appealed to the Supreme Court of Ohio. The Court reversed the BTA decision by holding that the public-college

¹ *Equity Dublin Associates v. Tax Commissioner*, 2014-Ohio-5243 (2014). Click [here](#) to read the Supreme Court’s full decision.

² Ohio Revised Code § 5709.07(A)(4).

exemption applies to buildings leased by the college or university *only when the college or university owns the land*.³

The Court relied heavily upon and distinguishes this case from its earlier decision in *Cleveland State University v. Perk*⁴ (“Perk”). In *Perk*, the college owned land but was unable to finance buildings which it needed. Thus, a for-profit third party built modular buildings which were then leased back to the college. The Court held that the property was exempt under the public-college exemption because the buildings were both used by the college and they were located on college-owned land (a/k/a “on the campus”).

In contrast, the buildings in *Equity Dublin* only met 1 of the 2 required “connected” factors -- while the buildings were used by the college, the land upon which the buildings were located was not owned by the college. In summary, the Court makes it clear in this case that a college’s mere use of a facility alone does not warrant tax exemption status. Instead, that use must be combined with an equally important factor for determining public-college tax exemption status – ownership of the land.

***Bluestone Law Group regularly monitors Ohio’s ever-changing real property tax laws. For monthly updates and articles, visit our website at www.bluestonelawgroup.com.

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³ Interestingly, the Court held that the applicants’ failure to identify the correct exemption statute as the basis for exemption on their applications was not fatal to their claims. The applicants brought their claims under O.R.C. §§ 3354.15 and 3358.10 (which both relate to community colleges) instead of O.R.C. § 5709.07(A)(4) (the general statutory exemption for schools, churches, and colleges). The Court held that because O.R.C. § 5715.27 (the statute allowing for application for tax exemptions) did not specifically prescribe that an application identify the correct exemption statute, filing an application under the wrong statute was not a jurisdictional prerequisite. **Practice Point:** we are in no way downplaying the importance of filling out forms as accurately as possible – property tax exemption claims are frequently dismissed on procedural grounds.

⁴ 26 Ohio St.2d 1, 268 N.E.2d 577 (1971).