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Summary

The allocation of urban renewal funds will face new scrutiny thanks to the Oregon Supreme Court decision in *Shilo Inn v. Multnomah County*. Until recently, public officials had access to greater property tax resources by classifying some urban renewal money for public schools, despite directing the money to non-school purposes.

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“A tax system so Byzantine that the experts cannot decipher it is not a fair system.”

Urban renewal drains resources, confuses all

By Gregory W. Byrne, J.D.

Until recently, the creation of an urban renewal district was a convenient way for public officials to fund pet projects without voter approval. The purse strings have just tightened on that ready source of cash.

On December 20, 2001 the Oregon Supreme Court ruled that Multnomah County exceeded constitutional limits in collecting ad valorem taxes on property in urban renewal areas in fiscal year 1998-99. The case was brought by Shilo Inn, owner of a motel in the Airport Way Urban Renewal Area, one of 11 such districts in Portland.

Multnomah County had determined the real market value of Shilo's motel to be \$15,297,600. Under the limits of 1990's Measure 5, Shilo's maximum property tax liability was \$15 per thousand dollars of real market value, comprised of \$5 "to specifically fund the public school system" and \$10 "to fund government operations other than the public school system." Shilo's limit under the non-school category therefore was \$152,976. However, when taxes dedicated to urban renewal were taken into account, the amount collected for non-school purposes was actually \$159,160, or \$6,184 in excess of the limit.

When a geographic area is designated an Urban Renewal Area under Oregon law, the assessed value of all property in the area is "frozen." Thereafter, taxes on this frozen base are distributed to schools and other local governments, while taxes on the "increment," i.e., the amount by which the assessed value has increased, is paid to the urban renewal agency—in this case the Portland Development Commission—to fund redevelopment of supposedly "blighted" neighborhoods.

Of the total ad valorem tax of \$234,005 imposed on Shilo's Airport Way motel, 23 percent, or \$53,526, was attributable to the increment and accordingly paid to the Portland Development Commission. What prompted the lawsuit was Multnomah County's failure to include all of the 23 percent in Measure 5's non-school category.

The county argued that the categories were determined not by use of the tax revenue but by the type of district levying the tax. Thus a school district tax levy was deemed a tax “to specifically fund the public school system” even though a portion would be spent for the demonstrably non-school purpose of urban renewal. Shilo contended that Measure 5’s “school” and “non-school” categories should be determined by how the tax revenue is spent, not by the character of the agency levying the tax. The Oregon Tax Court sided with Multnomah County, but on appeal the Supreme Court ruled that Shilo’s interpretation was correct.

This case exposes two shortcomings in Oregon’s property tax system. The first is that it is too complicated even for professional tax collectors to comprehend. The court was faced with having to interpret three constitutional clauses and several statutes—one of which it declared unconstitutional. This legal hodge-podge required tax collectors to perform elaborate mathematical computations. While Shilo was not the only property owner overtaxed, it was the only owner to object, indicating that the others were not aware of the problem. Even the Tax Court, the tribunal most familiar with the intricacies of Oregon’s tax laws, thought the county had correctly calculated the tax. A tax system so Byzantine that the experts cannot decipher it is not a fair system.

The other shortcoming revealed by the Shilo Inn case is how urban renewal skews the property tax system, drawing resources from schools and other government agencies to subsidize developers. In the Airport Way Urban Renewal Area the amount siphoned off for redevelopment equals 23 percent, but that figure soars to 57 percent in downtown Portland. This is money that otherwise would pay for schools, police protection, parks and social programs.

In 1998-99, public schools contributed approximately \$7 million in tax revenue to the Portland Development Commission. Thus, urban renewal diverts a substantial amount of tax revenue away from government programs that many believe are more critical to livability than the bricks, mortar and rails that urban planners promote. Hopefully *Shilo Inn v. Multnomah County* will stimulate a dialogue on urban renewal.

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