



IP&B Client Boston Properties Wins Summary Judgment in DC Tax Litigation

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Tax Litigation

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On January 24, 2014, the Tax Division of the Superior Court of the District of Columbia awarded summary judgment to IP&B client Boston Properties in litigation over Boston Properties' entitlement to a franchise tax refund for 2007. Represented in the litigation by IP&B's Alex Sadler and Benjamin Grosz, Boston Properties sued the District of Columbia to enforce a settlement agreement that Boston Properties had reached with officials in the District's Office of Tax and Revenue (OTR) and establish the company's entitlement to a substantial franchise tax refund.

The District of Columbia moved for summary judgment on the grounds that the OTR officials who executed the settlement lacked the requisite actual authority to bind the District and that the settlement was barred by the Anti-Deficiency Act. In support of its authority argument, the District cited a nonpublic dollar limitation on the OTR officials' settlement authority and a Home Rule Act provision that the District contended put taxpayers on notice that only the Chief Financial Officer (CFO) was authorized to settle tax claims.

Boston Properties opposed the District's motion and filed its own cross-motion for summary judgment on the ground that the OTR officials who entered into the settlement agreement possessed the actual authority to settle Boston Properties' refund claim implied by their positions and job responsibilities within OTR. Boston Properties also argued that the nonpublic dollar limitation on the OTR officials' authority lacked any legal effect on Boston Properties or other taxpayers because the District had failed to publish the limitation in the District Register or otherwise provide notice of the limitation to the public. Boston Properties also argued that the Home Rule Act provision did not give the CFO exclusive authority over tax settlements but allowed the CFO to delegate such authority to employees within



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the CFO's office.

The Superior Court denied the District of Columbia's motion, granted Boston Properties' cross-motion, and enforced the settlement agreement. The court agreed with Boston Properties' positions and found that the OTR officials had acted with implied actual authority and that the District had not provided sufficient notice to Boston Properties that the OTR officials lacked authority to engage in settlement negotiations. The court also found that the Anti-Deficiency Act was inapplicable because Congress had appropriated the funds promised to Boston Properties in the refund.

The case has implications regarding the enforceability of settlements of tax disputes for taxpayers in the District as well as other jurisdictions.

A link to the Superior Court's order is below. If you have questions about the order or the litigation in general, please contact Alex Sadler or Benjamin Grosz by phone at (202) 393-7600 or email at asadler@ipbtax.com or bgrosz@ipbtax.com.