

Avery v. Guadalupe County Appraisal District:

Property Tax Appeal Hearing Highlights

Date: Thursday 7/14/16 10:45 AM

Place: Justice Center 25th District Court Seguin, Texas

The Defendants asked for one hour to orally argue their three motions (1 partially dismiss, 2 Traditional Summary Judgment and 3 "No Evidence" Summary Judgment). The Judge said right up front that they would have 15 minutes because he was not going to rule today but would rather take the case under advisement and rule in a couple of weeks after reading everything in the file. The judge said if the movant wanted to point out some important main factors they could and that the other party could briefly respond if they wanted.

The Defendants presented the basis of their partial dismissal motion saying that Avery was barred from appealing any Constitutional issues because there were actually two ARB hearings and that he only appealed the second hearing not the first one and the Constitutional issues were in the first hearing which he failed to appeal in a timely manner.

Avery responded that the motion to partially dismiss was based upon the failure of the ARB to issue all the rulings on all 6 grounds that Avery made in the beginning and had presented evidence for at the first hearing. The ARB had a duty to rule on all 6 grounds after the first hearing but decided to hold another hearing on some of the same issues. All Avery had requested was a ruling on all 6 grounds not another hearing. The Judge asked if Avery had any cases on that and Avery said no. The Judge asked Avery if the ARB is required to rule on every ground and Avery replied with a question: "if they weren't required to answer why did the ARB grant another hearing and rule on the other grounds?"

The Judge said he thought he understand this now and asked what else the Defendants had and the Defendants began their Traditional Summary Judgment Motion by saying that Avery's main complaint is that ad valorem property taxes are unlawful and unconstitutional and they had a similar case on that. The Judge asked Avery when ad valorem property taxes started in Texas and Avery replied; "that's a really good question" and that information on that is hard to find but that he thought it was around the time of the Civil War. The Judge said; then around our present Constitution. Avery agreed. The Judge asked Avery, "then you're asking me to overturn state policy since the Civil War?" He continued, "I might be planning on being re-elected." Avery said "If I win you will be re-elected and everyone here will own property!" All of this was said in good humor.

The Judge asked Avery how all this happened and Avery said our forefathers did not try to figure out how they got where they were, they just said it was only important to admit

where you are now and deal with it and that government should abandon ideas that were not good. We own property and create government to protect it, not charge us rent for it.

The Judge asked Avery if he had any law that showed that ad valorem property taxes were unlawful and Avery replied "I sure do, Article 8 Section 1(a) all taxes shall be equal and uniform and no two pieces of property have an equal and uniform tax on them. In fact even on the one piece of property we are talking about here there is no way to figure a uniform equal tax. I protested the \$61,000 value and said it was worth about \$20,000 the ARB came back with more study and said it was useless property and worth \$398 and now I'm building a three story house on it. The Judge asked if Avery would represent him at the Appraisal District and Avery said he would be happy to. Avery continued that ad valorem property tax is really rent and its determination is rent negotiation and that this cannot be the law.

The Judge said that he would look at all this next week or the week after that and notify everyone by letter what he rules.

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