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Woda Ivy Glen Limited Partnership v. Fayette County Board of Revision

In a decision that may have huge implications for the affordable housing industry in Ohio, the Ohio Supreme Court ruled that real property tax assessments of low-income housing properties must consider the impact that use and rent restrictions have on the value of such properties.

In the case, *Woda Ivy Glen Limited Partnership v. Fayette County Board of Revision*, the Supreme Court stated that "use restrictions imposed under I.R.C. 42 constitute governmental restrictions for the general welfare that must be taken into account when determining the value of LIHTC property." The court reiterated the existing rule that the value of the tax credits and related equity are not subject to Ohio property tax.

This is a very important ruling for owners and management agents of LIHTC properties across Ohio because Ohio property taxes have been a deterrent to the development and viability of affordable housing in Ohio for many years. Although an effort continues to obtain a partial tax-exemption statutorily, the Supreme Court decision is a great victory for the affordable housing industry in Ohio.

Once adopted by each county's auditor, LIHTC properties will be valued using an income approach that considers the downward effect that use and rent restrictions have on the fair market value of LIHTC properties, which will undoubtedly result in lowered tax liabilities for most LIHTC properties in Ohio. Still unclear however, is exactly how the lower courts and the counties will determine valuation reductions.

The Woda Group would like to extend our appreciation to industry partners that worked on an amicus brief filed in support of this case which proved helpful in the final ruling. Those partners include Karen Bauernschmidt, Porter Wright Morris & Arthur, LLP, Ohio Capital Corporation for Housing, the Ohio Housing Council, the Coalition on Housing and Homelessness in Ohio, the Council for Rural Housing & Development of Ohio and the Ohio Community Development Corporation.