2011 IL App (3d) 100828-U

Order filed October 28, 2011

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2011

WHITESIDE COUNTY, a municipal corporation,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
	)	Whiteside County, Illinois
Plaintiff-Appellee,	)	
	)	Appeal No. 3-10-0828
v.	)	Circuit No. 10-MR-14ST
	)	
DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS,	)	
	)	
	)	Honorable Jeffrey W. O'Connor,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Presiding Justice Carter and Justice Holdridge concurred in the judgment.

ORDER

¶ 1 *Held*: Hangars at municipal airports that are leased to private individuals are not used for public purposes and therefore are not tax exempt.

¶ 2 The Illinois Department of Revenue (the Department) appeals a circuit court's decision,

which reversed an administrative decision of the Department that hangars leased to private entities at the Whiteside County Airport were not exempt from real estate taxes in tax year 2007 as they were not used for public purposes. We find that the Department's decision applied the correct law in reaching its decision, and that its decision is not clearly erroneous. Therefore, we reverse the circuit court's order in part and confirm the Department's decision in part.

¶ 3 FACTS

¶ 4 I. Background on the Hangars

¶ 5 The Whiteside County Airport is owned and operated by Whiteside County pursuant to its authority under the General County Airport and Landing Field Act, 620 ILCS 40/1 *et seq.* (West 2010). Since it is a county-owned airport, the Whiteside County Airport is deemed to be operated for public purposes. 620 ILCS 40/4 (West 2010). The airport is the only public airport in Whiteside County that is capable of providing all-weather aviation use and has airport-owned tenant hangars. The airport no longer has scheduled airline service, but rather is used for flying instruction, engine and radio maintenance, and charter services.

¶ 6 The parcel for which the Airport Board (the Board) sought an exemption is Whiteside County property index number (P.I.N.) 17-10-126-001. That parcel has three tenant hangar buildings, numbered Hangars 4, 5 and 6, each of which has 10 bays, designated by the letters A through J. The hangars were constructed to accommodate aircraft owners and generate use of the Whiteside County Airport for Whiteside County citizens. The hangars are intended to provide storage for aircraft away from Illinois's inclement weather and security for expensive

planes. Without these hangars, aircraft owners would not base aircraft at the Whiteside County Airport, and without locally-based aircraft, the airport would not be used enough to justify its costs.

¶ 7 During the 2007 tax year, Hangars 5B, 5E and 5J were used by the Whiteside County Airport for storage of its own grounds and runway maintenance equipment. Hangar 5C and a small office at the end of Hangar 4 were leased by the Illinois State Police for law enforcement purposes. Hangars 4F, 4G, 5D, 5G, 5H, 5I, 6H, and 6J were vacant.

¶ 8 The 17 remaining hangars (Hangars 4A through E, 4H through J, 5A, 5F, 6A through G and 6I) were leased to private parties on month-to-month tenancies. The leases were available to aircraft owners on a first-come, first-served basis and were set at competitive rates. Nine of the private leases in effect during tax year 2007 originated prior to 1999, six originated between 2004 and 2006, one originated in 2007, and one was undated.

¶ 9 All but one of the private leases prohibited the tenant from storing anything other than airplanes or related flying equipment in the hangar. The lease for Hangar 4A, however, provided that the tenant, Experimental Aircraft Association Chapter 410 (EAA), "may use the hangar for storage of equipment that belongs to EAA including but not limited to tables, chairs, grills, etc., *** and for in-process home built or experimental aircraft belonging to current members." The hangar also could "be used for meetings or other promotional events sponsored by" EAA.

¶ 10 II. Exemption Complaint

¶ 11 On March 12, 2008, the Board filed a real estate tax exemption complaint with the board

of review of Whiteside County seeking an exemption for P.I.N. 17-10-126-001 under section 15-75 (35 ILCS 200/15-75 (West 2010)), which exempts "public grounds owned by a municipal corporation and used exclusively for public purposes," and section 15-60(b) (35 ILCS 200/15-60(b) (West 2010)), which exempts "all public buildings belonging to any county, *** with the ground on which the buildings are erected." The board of review recommended to the Department that the exemption be granted.

¶ 12 On May 22, 2008, the Department issued an exemption certificate for P.I.N. 17-10-126-001 that stated, "The above parcel, the Hangars 5B, 5E, the land on which they stand and the remainder of the parcel not covered by the buildings is exempt for 100% of the 2007 assessment year. All hangars except 5B, 5E and the land on which they stand are taxable."

¶ 13 On June 27, 2008, the Board timely filed a protest of the denial of the exemption for the hangars. In lieu of an evidentiary hearing, the Board and the Department submitted a stipulation of facts, a table listing the hangar leases and copies of the leases. In addition to the facts set forth above, the stipulation included the following statements:

> "7. It is integral to the operation of an airport and particularly Whiteside County Airport that aircraft tenant hangars are provided for the storage of personally owned aircraft.
>
> 8. Tenant aircraft hangars are considered vital to the operation of the Airport, ***
>
> * * *

11. Tenant hangars at the County owned Airport serve the exact same function as hangars located at airports operated by Illinois Airport Authorities. Airports performing public airport functions must provide tenant hangars to house local aircraft or such airports would not be used."

¶ 14 III. Department's Decision

¶ 15 On January 19, 2010, a Department Administrative Law Judge (ALJ) issued a recommendation that the exemption certificate be affirmed. He explained that in *Marshall County Airport Board v. Department of Revenue*, 163 Ill. App. 3d 874 (1987), this court held that building areas in a county airport that were leased to private parties for use of their aircraft were not exempt from taxation because those areas were "not being used for public purposes." (quoting *Marshall County*, 163 Ill. App. 3d at 875). He concluded that, under *Marshall County*, the Whiteside County Airport's hangars leased to private parties for use of their aircraft also "cannot be considered used for 'public purposes,' " and therefore were not exempt.

¶ 16 The ALJ then rejected the Board's contention that the Illinois Supreme Court overruled *Marshall County* in *Harrisburg-Raleigh Airport Authority v. Department of Revenue*, 126 Ill. 2d 326 (1989). He explained that, in *Harrisburg-Raleigh*, the supreme court held that hangars at an airport authority that were leased to private parties for aircraft storage were exempt from taxation under section 15-160 (35 ILCS 200/15-160 (West 2010)), which exempts "all property belonging to any Airport Authority and used for Airport Authority purposes." (citing *Harrisburg-Raleigh*, 126 Ill. 2d at 334). The supreme court construed this special exemption for airport authority

property to be broader than the exemption for municipal property set forth in section 15-75, and held that, because private hangar leases served the airport authority's statutory purpose of maintaining a public airport, the hangars were exempt. (citing *Harrisburg-Raleigh*, 126 Ill. 2d at 335).

¶ 17 The ALJ further explained that, rather than overruling *Marshall County*, the supreme court expressly found that case "distinguishable *** because it involve[d] a municipally owned airport, rather than an airport authority." (quoting *Harrisburg-Raleigh*, 126 Ill. 2d at 336). The leased areas in *Marshall County* "were therefore nonexempt" under the "public purposes" exemption, and the "airport authority purposes" exemption did not apply.

¶ 18 Finally, the ALJ distinguished *Franklin County Board of Review v. Department of Revenue*, 346 Ill. App. 3d 833 (2004), a case upon which the Board relied. In that case, the appellate court held that a restaurant, hotel, and condominiums owned and operated by a conservancy district were tax exempt because they were used primarily for public purposes. (citing *Franklin County*, 346 Ill. App. 3d at 843). There, the record established that the district's facilities were used by hundreds of people during the tax year for short periods of time. (citing *Franklin County*, 346 Ill. App. 3d at 837-38). The court concluded that such "daily rentals and short-term leases" supported the district's "public purposes of providing recreational facilities and promoting public safety, comfort, and convenience." (quoting *Franklin County*, 346 Ill. App. 3d at 843).

¶ 19 The ALJ found that, in contrast, here, the Whiteside County Airport did not offer

scheduled airline service, which would serve the general public, but rather provided only flying instruction, engine and radio maintenance, and charter services, which "benefit a very small group of people." Additionally, although the leases theoretically were short-term and open to everyone, the evidence revealed that they were held by only a few individuals for many years at a time. The fact that the parties had stipulated that the hangars were "integral, vital," and necessary to the operation of the airport did not change the analysis, as such statements were legal conclusions to which the ALJ was not bound. (citing *Domagalski v. Indus. Comm'n*, 97 Ill. 2d 228, 235 (1983)).

¶ 20 Given this court's decision in *Marshall County* and the evidence that the privately-leased hangars primarily benefitted private individuals, the ALJ concluded that those hangars were not used for public purposes and therefore were not exempt. The ALJ determined, however, that he could "make no recommendation" regarding exemption for the vacant hangars and the areas leased to the Illinois State Police. The ALJ's recommendation was approved by the director of the Department and became final on February 19, 2010.

¶ 21 IV. Administrative Review

¶ 22 On March 4, 2010, the Board filed a complaint for administrative review in the circuit court. On September 14, 2010, the circuit court entered an order reversing the Department's decision to the extent it denied exemption. The court determined that *Marshall County* was not controlling, that "no logical difference exists to support different property tax treatment between airport authority tenant hangars and tenant hangars at county airports," and that, under

Harrisburg-Raleigh, the Whiteside County Airport hangars therefore were exempt. The court directed the Department to issue a certificate exempting the entire parcel but stayed enforcement of its order pending appeal.

¶ 23 On October 14, 2010, the Department timely filed a notice of appeal by mail. On appeal, the Department challenges the circuit court's order to the extent it requires the Department to exempt the privately-leased hangars (Hangars 4A through E, 4H through J, 5A, 5F, 6A through G, and 6J). The Department does not contest the exemption for the areas that were used by the Whiteside County Airport (Hangars 5B, 5E, and 5J), leased by the Illinois State Police (Hangar 5C and the small office in Hangar 4), or were vacant (Hangars 4F, 4G, 5D, 5G, 5H, 5I, 6H, and 6J).

¶ 24 ANALYSIS

¶ 25 The Department argues that the hangars leased by the Board are not used exclusively for public purposes and so they are not eligible for a tax exemption. The Board argues that the hangars they lease to private individuals are exactly the same as the hangars in *Harrisburg-Raleigh Airport v. Department of Revenue*, 126 Ill. 2d 326 (1989), which were found to be exempt, and as such, the hangars in question should receive a tax exemption.

¶ 26 I. Standard of Review

¶ 27 As in all administrative review cases, this court reviews the Department's final administrative decision, not the judgment of the circuit court. *Provena Covenant Medical Center v. Department of Revenue*, 236 Ill. 2d 368, 386 (2010). The Department argues that the

sole question is whether, under the facts established by the stipulation and the leases, the privately-leased hangars qualify for an exemption from taxation under the Property Tax Code (the Code) (35 ILCS 200/1-1 *et seq.* (West 2010)), which is a mixed question of law and fact that should be reversed only if clearly erroneous. The Board argues that only issues of law are presented in this case, making the proper standard of review *de novo*. We find that the Board raises questions of law, which we review *de novo*. *Provena*, 236 Ill. 2d at 387. As discussed below, our resolution of the legal issues presented by the Board, is that the Department applied the correct law to the facts. Therefore, we review the decision of the Board using a clearly erroneous standard. *Id.* The clear error standard is "significantly deferential." *Id.* "An administrative decision will be set aside as clearly erroneous only when the reviewing court is left with the definite and firm conviction that a mistake has been committed." *Id.* at 387–88.

¶ 28 II. Tax Exemptions Generally

¶ 29 Under Illinois law, "[a]ll property is subject to taxation, unless exempt by statute, in conformity with the constitutional provisions relating thereto." *Id.* at 388. "The Illinois Constitution does not *require* the legislature to exempt any property from taxation. A property tax exemption exists only when the legislature chooses to create one by enacting a law." (Emphasis in original.) *Eden Retirement Center, Inc. v. Department of Revenue*, 213 Ill. 2d 273, 290 (2004). It, therefore, follows that the legislature may place restrictions on those exemptions it chooses to grant. *Id.* at 290–91.

¶ 30 Given that taxation is the rule, and exemption the exception, "[s]tatutes granting tax

exemptions must be strictly construed in favor of taxation." *Provena*, 236 Ill. 2d at 388. Additionally, the taxpayer bears the heavy burden of establishing "by clear and convincing evidence that the property in question falls within both the constitutional authorization and the terms of the statute under which the exemption is claimed." *Id.* In evaluating the taxpayer's showing, "all facts are to be construed and all debatable questions resolved in favor of taxation [citation], and every presumption is against the intention of the state to exempt property from taxation." *Id.* "If there is any doubt as to applicability of an exemption, it must be resolved in favor of requiring that tax be paid." *Id.*

¶ 31 Under the Illinois Constitution, the General Assembly may exempt from taxation "only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes." Ill. Const. 1970, art. 9, §6. In accordance with this constitutional authority, the General Assembly enacted sections 15-60(b) and 15-75 of the Code, the two provisions under which the Board seeks an exemption. Section 15-60(b) exempts "all public buildings belonging to any county, township, or municipality, with the ground on which the buildings are erected." 35 ILCS 200/15-60(b) (West 2010). Section 15-75 exempts "[a]ll market houses, public squares and other public grounds owned by a municipal corporation and used exclusively for public purposes." *Id.* §15-75. As used in section 15-75, the term "municipal corporation" includes counties. *Marshall County*, 163 Ill App. 3d at 876–77.

¶ 32 "A municipal corporation is not entitled to obtain a tax exemption on property merely by

virtue of its ownership of that property." *Metropolitan Water Reclamation District of Greater Chicago v. Department of Revenue*, 313 Ill. App. 3d 469, 475 (2000) (citing *Sanitary District of Chicago v. Martin*, 173 Ill. 243, 248 (1898)). Rather, it "must demonstrate that its property is used exclusively for tax exempt public purposes." *Metropolitan Water*, 313 Ill. App. 3d at 475. "In considering a tax exemption based on the property's use, it is the primary use of the property that determines its taxable status." *Grundy County Agricultural District Fair, Inc. v. Department of Revenue*, 346 Ill. App. 3d 1075, 1080 (2004). "If the property is leased, it is the primary use of the property by the lessee, and not its incidental or secondary use, which determines whether the tax-exempt status continues." *Id.*

¶ 33 As a general rule, municipal "property loses its tax exempt status when *** [the municipality] chooses to lease its property to a private entity for commercial purposes rather than to use the property for public purposes." *Metropolitan Water*, 313 Ill. App. 3d at 476; see *People ex rel. Lawless v. City of Quincy*, 395 Ill. 190, 198 (1946) (differentiating between exempt portion of municipal property devoted to public use and nonexempt portion leased to individuals); *Sanitary District of Chicago v. Hanberg*, 226 Ill. 480, 484–85 (1907) (portion of municipal land leased to private individuals not exempt because it was "not being used for public purposes"). "The sole exception to this principle arises where the taxpayer can demonstrate that, following such leasing, the property continued to be used for public purposes and the primary use of the property remained tax exempt while any taxable use of the property was merely incidental." *Metropolitan Water*, 313 Ill. App. 3d at 476.

¶ 34 III. Airport Tax Exemptions

¶ 35 This court previously addressed the very issue on appeal here, in *Marshall County*. There, the Department granted a public-purposes exemption to a county airport for all of its land except areas subject to airplane tiedown, hangar, farmland, and service leases. *Marshall County*, 163 Ill. App. 3d at 875. Upon administrative review, the circuit court affirmed the Department's decision that the areas subject to service and hangar leases were taxable but reversed its decision with respect to the tiedown areas and farmland. *Id.* The Department appealed, and this court affirmed the Department's decision in its entirety. *Id.* at 877.

¶ 36 *Marshall County* first rejected the circuit court's decision that the farmland was used for public purposes simply because the revenue from the lease was used to defray airport costs, explaining that " '[t]he use to which the property is devoted rather than the use to which income derived from the property is employed is decisive.' " *Id.* at 876 (quoting *City of Lawrenceville v. Maxwell*, 6 Ill. 2d 42, 48 (1955)).

¶ 37 The *Marshall County* court next turned to the tiedown areas and stated that it "fail[ed] to note any distinction, factually, between the areas subject to the hangar leases and the areas subject to the tiedown leases for taxation purposes," nor was there any "evidence in the record that *** they should be treated any differently." *Marshall County*, 163 Ill. App. 3d at 876. The court then explained that under *Lawless* and *Hanberg*, land owned by a municipal corporation and leased to individuals is subject to taxation because it is not being used for public purposes. *Marshall County*, 163 Ill. App. 3d at 876. The court concluded that the Marshall County airport

areas that were leased to private parties were not exempt. *Id.*

¶ 38 In *Harrisburg-Raleigh Airport Authority v. Department of Revenue*, 126 Ill. 2d 326 (1989), the Illinois Supreme Court held that hangars leased to private parties for aircraft storage were exempt under the predecessor to section 15-160 of the Code because the hangars belonged to an airport authority and were used for airport authority purposes. *Id.* In so doing, the court differentiated between the exemption given to airport authorities, which is broad enough to encompass private uses of airport property, and the exemption given to municipalities, which requires that the property be used exclusively for public purposes. *Id.* at 332-36.

¶ 39 The court first acknowledged the general rule that "property leased or rented to private individuals is not being used for public purposes." *Id.* at 332. But it rejected the argument that "airport-authority uses are synonymous with public uses in the strict sense." *Id.* at 334. If this were true, section 15-160 "would be somewhat superfluous," as section 15-75 already exempts municipal property, including airport land, that is used exclusively for public purposes. *Id.* Moreover, the court explained, "the lack of specific language in section [15-160] excluding from the exemption[,] airport-authority property leased to private parties or used in part for private purposes[,] militates against" equating airport authority purposes with public purposes. *Id.* "The absence of the word 'exclusive' in section [15-160] suggests *** that the exempt purposes may have a stronger element of private benefit, so long as they are substantially related to the purposes of maintaining a public airport." *Id.* at 344.

¶ 40 The court concluded that, while uses of airport authority property "must be consistent

with the maintenance of a 'public airport,' [they] need not be exclusively 'public' " in the same sense as the exemption for general municipal property. *Id.* at 334–35. Rather, the General Assembly's "inclusion of a separate exemption for airport-authority uses suggests that this exemption is to be construed at least broadly enough to encompass private uses of airport-authority property which bear a real and substantial relation to the authority's statutory purpose of maintaining a public airport." *Id.* at 336.

¶ 41 On the other hand, the court cautioned that leasing hangar facilities for the use of private aircraft does not inevitably support the maintenance of a public airport. *Id.* at 333. The court explained: "While airports may certainly include hangars, and public airports may encompass hangars which can be used by private aircraft, it need not follow that these hangars can be rented to individual private aircraft owners for their exclusive use without infringing upon the 'public' character of the airport." *Id.*

¶ 42 The *Harrisburg-Raleigh* court found that "[t]he fact that these leases are short-term, in no case exceeding one year, and are available to all members of the flying public on a first come, first served basis strongly supports the conclusion that they serve a public airport's statutory function as a terminus for private, as well as public and commercial, aircraft." *Id.* at 335. The court concluded that, because "[t]he goal of assuring regular users of the airport that they will be able to store their craft in secure facilities bears a real and substantial relation to a public airport's function of serving as a terminus for private aircraft," the leased hangars were exempt. *Id.*

¶ 43 The court stated that "the case of [*Marshall County*] is distinguishable, simply because it involves a municipally owned airport, rather than an airport authority. The farmland and tie-down areas in that case were therefore nonexempt under section [15-75 of the Code], and section [15-160] did not apply." *Id.* at 336.

¶ 44 In sum, in *Harrisburg-Raleigh*, the supreme court held that the exemption for property that is owned by an airport authority and used for airport authority purposes is broader than the exemption for municipal property that is used exclusively for public purposes. *Id.* at 334-36. The fact that privately-leased airport authority hangars are exempt under the airport authority exemption does not mean that privately-leased municipal airport hangars also are exempt. Quite simply, municipal airports do not get the benefit of the broader airport authority exemption.

¶ 45 The Board in this case argues that since the stipulations in this case indicate that the hangars in question at Whiteside Airport serve the same purpose as the hangars in question in *Harrisburg-Raleigh*, the supreme court's decision in *Harrisburg-Raleigh* is controlling in this case. As discussed above, the court in *Harrisburg-Raleigh* specifically distinguished between airport authorities and municipal airports. Tax exemptions for these two different types of airports are controlled by different statutes and so the *Harrisburg-Raleigh* decision does not require that the hangars in this case be treated the same as the hangars in that case.

¶ 46 This matter is indistinguishable from *Marshall County*. Here, as in that case, a county airport seeks a public-purpose exemption for building areas subject to private leases for the use of private aircraft. The fact that the exact issue on appeal in *Marshall County* was airplane

tiedown leases rather than hangar leases is immaterial; as the *Marshall County* court noted, there is no "distinction, factually, between *** hangar leases and *** tiedown leases for taxation purposes." *Marshall County*, 163 Ill. App. 3d at 876. Both hangars and tiedown areas are leased for the convenience of private aircraft owners who use the airport. As there is no meaningful difference between *Marshall County* and this matter, the Department did not clearly err in following that case and deciding that the privately-leased Whiteside County Airport hangars are not exempt.

¶ 47 *Marshall County* addressed the exact issue on appeal before us and follows the established law in Illinois that public property leased to a private entity loses its exempt status unless its primary use remains public under the lessee's control. While we agree that hangars built and offered for rent to private entities by a municipal airport are used for a primarily public use, as soon as the airport leases the hangar to a private entity, it no longer serves a public purpose; it serves the private purpose of the lessee.

¶ 48 IV. Tax Exemption at Other Than Airports

¶ 49 The Board also argues that we should decline to follow the decision in *Marshall County*, and instead follow the reasoning in *Franklin County Board of Review v. Department of Revenue*, 346 Ill. App. 3d 833 (2004). In *Franklin County*, the appellate court affirmed the Department's decision to grant exemptions for a restaurant, hotel, and condominium complex owned and operated by a lake conservancy district. *Franklin County*, 346 Ill. App. 3d at 835. By statute, the district was charged with providing "parks and recreational facilities" and promoting "public

comfort, convenience, health, safety, and welfare." *Id.* at 842. The record established that, during the tax year at issue, the banquet facilities at the restaurant "were reserved by more than 400 individuals and private and public entities"; the hotel "logged a total of 7,665 room nights" with most guests staying "one to two days"; one condominium was leased to an individual for four months, three were leased to individuals for three months or less, and the remaining 18 condominiums were leased "to different people for one to three days at a time." *Id.* at 837–38.

¶ 50 The court held that the Department did not clearly err in finding that the facilities were exempt because they were used for public purposes. *Id.* at 841. The court first determined that the statutory purposes of the lake conservancy district were "inherently public in nature." *Id.* at 842. It then had "no difficulty" concluding that "[t]he provision of meals, meeting facilities, and lodging services to enhance the overall recreational experience for visitors and promote the comfort and convenience for the visiting public" fulfilled those public purposes. *Id.* at 842–43.

¶ 51 The court went on to reject the contention that the facilities "were not used for public purposes because they were used by private individuals and businesses for a fee to further their personal agendas and because the hotel and condominiums were put to residential use." *Id.* at 843. The record established that all of the facilities were open and available to, and used by, a broad swath of the public. *Id.* The fact that some individuals used the facilities for private purposes without also conducting other activities at the lake was "irrelevant," since such incidental private use did not deprive the property of its tax-exempt character. *Id.* It also did not matter that the hotel and condominiums were put to residential use, because "the provision of

overnight lodging, by way of daily rentals and short-term leases" bore "a real and substantial relation to [the lake]'s public purposes of providing recreational facilities and promoting public safety, comfort, and convenience." *Id.*

¶ 52 We decline to follow this case for two reasons. First, it breaks with settled law in this state concerning public property leased to private entities. Second, it deals with a water conservation district while case law directly addressing the exact issue on appeal is provided by *Marshall County* and *Harrisburg-Raleigh*. We recognize the appeal of the *Franklin County* reasoning, but until the Illinois Supreme Court addresses this issue, we will follow the precedent from this district.

¶ 53 V. General County Airport and Landing Field Act

¶ 54 We now turn to one last issue raised by the Board. Specifically, that under section 4 of the General County Airport and Landing Field Act (the County Airport Act) (620 ILCS 40/4 (West 2010)), the Whiteside County Airport land is deemed to be "acquired, owned, leased, or occupied for a public purpose," as such the airport hangars in question are statutorily declared to be used primarily for a public purpose. We do not agree. If we did agree, it would lead to the absurd result that everything the Board does with the land, no matter how private, must be considered to serve public purposes. The purpose of the County Airport Act is to declare the powers of counties to operate airports, "a topic wholly separated from the purpose of the Code, which is to administer taxes." *Du Page County Airport Authority v. Department of Revenue*, 358 Ill. App. 3d 476, 496-97 (2005). As the appellate court has stated in response to a similar

argument, "[d]eclaring all [county airport] uses, along with [public] uses, to be tax exempt would not only create a substantial tax loophole to be exploited by private lessees, but it would also render virtually meaningless the limitation in the Code requiring that exempt land be used for [public] purposes." *Id.* at 497.

¶ 55 CONCLUSION

¶ 56 The Department correctly determined that, under *Marshall County* and *Harrisburg-Raleigh*, the Whiteside County Airport's privately-leased hangars were not exempt from taxation since they were not used for public purposes.

¶ 57 Here, it is undisputed that the Whiteside County Airport is a municipal airport, not an airport authority. It therefore cannot claim exemption under section 15-160 but, rather, must meet the more stringent public purposes test—which, under *Marshall County*, it cannot do. The Department did not clearly err in deciding that the privately-leased Whiteside County Airport hangars were not exempt.

¶ 58 For the foregoing reasons, the judgment of the circuit court of Whiteside County is reversed in so far as it held that the privately-leased hangars are exempt from taxation in the 2007 tax year. The decision of the Department is confirmed in so far as it held that the privately leased hangers were not exempt.

¶ 59 Circuit court reversed in part; Department confirmed in part.