

Timberland Partners XXI, LLP, Edward L. Hendrickson and James C. Conlin v. Iowa Department of Revenue (Iowa Supreme Court, October 24, 2008)

Taxing apartments at a higher rate than condominiums of the same value does not constitute illegal property tax discrimination.

Timberland Partners XXI, LLP, Edward L. Hendrickson, and James C. Conlin own many multi-unit residential apartment buildings in Iowa. They challenged Iowa Administrative Code rule 701—71.1(4), (5), in which apartment buildings are classified as commercial property, regardless of their use, but condominiums may be designated as commercial or residential, depending on use. The apartment owners sought to have their apartment buildings taxed as residential because of the lower tax percentages with commercial properties.

The Iowa Department of Revenue issued a declaratory order finding the rule did not violate equal protection. Timberland contends, “[a]partments and condominiums are similarly situated in their use, market characteristics, and structure.” The district court concluded that “[c]ondominiums’ characteristics as separate and identifiable parcels of real property make them rationally more akin to single family residences than apartments for classification purposes,” and that “[b]ased on this factor alone, the court believes the agency clearly has a rational basis for making the distinction” The other characteristics that differentiated condominiums from apartments were market characteristics, structural differences, and the “bundle of rights” associated with condominium ownership.

The Supreme Court found any similarities between apartments and condominiums are insufficient to consider them “similarly situated” for the equal protection analysis. Because condominiums can be sold as single-family units and “constitute . . . a separate parcel of real property,” this differentiates them from apartments. In addition to the individual ownership rights a condominium owner possesses, they also have the right to participate in the management and operation of the unit or complex and bear increased stewardship expectations, unlike an apartment tenant. Finally, the owner usually occupies a condominium, yet an apartment is used exclusively commercial. Because these are dissimilar, there is no right to equal protection.