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Quasi-Municipal Corporations; Hospital Authority; Chapter 75 Liability; Exemption from Suit

DiCesare v. Charlotte-Mecklenburg Hosp. Auth., ___ N.C. ___ (No. 156A17-2, 12/18/2020)

- ***Holding*— As a quasi-municipal corporation, Hospital Authority was not a "person, firm, or corporation" for purposes of G.S. 75-16. Supreme Court of North Carolina holds that business court correctly determined that the Hospital Authority, as a quasi-municipal corporation, was not subject to liability under Chapter 75 and affirmed the dismissal of plaintiffs' Chapter 75 claims.**

- ***Key Excerpt*—** This case arose from a dispute between plaintiffs (current and former North Carolina residents covered under commercial health insurance obtained through an employer with 51 or more employees) and defendant-Authority, a non-profit corporation with a principal place of business in Charlotte, in which plaintiffs sought reimbursement for healthcare costs based upon claims for restraint of trade and monopolization under G.S. Chapter 75 and N.C. art. I, sec. 34 (entitled, "Perpetuities and Monopolies").

The Court agreed with the business court that, as a quasi-municipal corporation, the Hospital Authority was not a "person, firm, or corporation" for purposes of G.S. 75-16. Accordingly, the Court concluded that the business court correctly determined that the Hospital Authority, as a quasi-municipal corporation, was not subject to liability under Chapter 75 and affirmed the dismissal of plaintiffs' Chapter 75 claims. Reviewing precedent, the Court initially stated, "As we have previously held, quasi-municipal corporations are created 'to serve a particular government purpose,' with the General Assembly having 'giv[en] to these specially created agencies [certain] powers and call[ed] upon them to perform such functions as the Legislature may deem best.' Greensboro-High Point Airport Authority v. Johnson, 226 N.C. 1, 9–10, 36 S.E.2d 803, 809 (1946). Quasi-municipal corporations are 'commonly used in [North Carolina] and other states to perform ancillary functions in government more easily and perfectly by devoting to them, because of their character, special personnel, skill and care.' *Id.* at 9, 36 S.E.2d at 809. In such instances, 'for purposes of government and for the benefit

and service of the public, the [S]tate delegates portions of its sovereignty, to be exercised within particular portions of its territory, or for certain well-defined public purposes.' Gentry v. Town of Hot Springs, 227 N.C. 665, 667, 44 S.E.2d 85, 86 (1947)."

The Court further observed, "As the record clearly reflects, the Hospital Authority was created in accordance with [G.S.] 131E-17(a) when the Charlotte city council adopted a resolution in which it '[found] that the public health and welfare, including the health and welfare of persons of low income in the City and said surrounding area, require the construction, maintenance, or operation of public hospital facilities for the inhabitants thereof.' At that point, the mayor of Charlotte appointed eighteen individuals to serve as commissioners of the Hospital Authority pursuant to [G.S.] 131E-17(b), -18, with the mayor having maintained the authority to remove commissioners 'for inefficiency, neglect of duty, or misconduct in office' in accordance with [G.S.] 131E-22. The Hospital Authority possesses the authority to acquire real property by eminent domain pursuant to [G.S.] 131E-24 and to issue revenue bonds under the Local Government Revenue Bond Act pursuant to [G.S.] 131E-26. The Hospital Authority is subject to annual audits by the mayor or the chairman of the county commission pursuant to [G.S.] 131E-29; to the Public Records Law, *see* Jackson [v. Charlotte-Mecklenburg Hosp. Auth., 238 N.C. App. [351] at 352, 768 S.E.2d [23] at 24 [(2014)]; and to regulation by the Local Government Commission, *see* [G.S.] 131E-21(f), -26, -32(c). In sum, the Hospital Authority was clearly created by the City of Charlotte, pursuant to statute, to provide public healthcare facilities for the benefit of the municipality's inhabitants."

The Court emphasized, "[Q]uasi-municipal corporations are agencies which have been specially created by the General Assembly, Greensboro-High Point Airport Authority, 226 N.C. at 9–10, 36 S.E.2d at 809, by means of a legislative delegation of authority, to carry out the governmental purpose of providing a service to the benefit of the public, Gentry, 227 N.C. at 667, 44 S.E.2d at 86, which the legislature is not as well positioned to carry out itself. In this sense, quasi-municipal corporations are an extension of the government that have been created to more efficiently and effectively manage the provision of necessary services to the public. Although quasi-municipal corporations are not subject to all of the requirements applicable to other governmental entities, it is clear that their essential function is, at its core, the governmental provision of services."

"For that reason, just as Rea Construction [Co. v. City of Charlotte, 121 N.C. App. 369, 370, 465 S.E.2d 342, 343 (1996)] and Stephenson [v. Town of Garner, 136 N.C. App. 444, 448, 524 S.E.2d 608, 612 (2000)] held that cities and towns are governmental entities that are exempt from suit under Chapter 75, we conclude that the same is true of a hospital authority which is jointly operated by a city and a county and, indeed, that all quasi-municipal corporations are exempt from suit under Chapter 75."

Affirming in part and reversing in part, the Court concluded its opinion by stating, "[T]he trial court did not err by granting judgment on the pleadings in favor of the Hospital Authority with respect to plaintiffs' Chapter 75 restraint of trade and monopolization claims. On the other hand, however, we further conclude that the trial court did err by denying the Hospital Authority's motion for judgment on the pleadings with respect to plaintiffs' claim pursuant to N.C. Const. art. I, § 34."

- ***Synopsis***— Appeal pursuant to G.S. 7A-27(a)(3) and by writ of certiorari pursuant to G.S. 7A-32(b) from a February 2019 interlocutory order entered by Special Superior Court for Complex Business Cases in Mecklenburg County, after the case was designated a mandatory complex business case by the Chief Justice pursuant to G.S. 7A-45.4(b). Affirmed, in part; Reversed, in part. Opinion by Justice Ervin.

Nota Bene (N.B.)
Other Recent Decision of Note

Constitutional Law; Governor; Legislature; Federal Block Grant Programs; Authority to Disburse Monies Cooper v. Berger, ___ N.C. ___ (No. 315PA18-2, 12/18/2020) (At issue in this case was whether the Governor or the General Assembly had the authority to determine the manner in which funds from certain federal block grant programs should be disbursed to specific programs. The Court of Appeals, ___ N.C. App. ___, 837 S.E.2d 7 (2019), issued a decision upholding the trial court's decision to grant judgment on the pleadings in favor of the legislative defendants and against the Governor. In a 6-1 decision, a majority of the Supreme Court of North Carolina affirmed. The majority held, "After careful consideration of the record in light of the applicable law, we hold that the General Assembly did not overstep its constitutional authority by appropriating the relevant federal block grant money in a manner that differs from the Governor's preferred method for distributing the funds in question." The majority *inter alia* rejected the Governor's custodial funds theory. "According to the Governor, the block grant funds at issue in this case are 'custodial funds' as defined in [G.S.] 143C-1-3(a)(8). As the record clearly reflects, however, the block grant funds at issue in this case are not being held by the State in a fiduciary capacity for later distribution to their equitable owner. Instead, the relevant block grant monies have been paid by the federal government to the State to fund programs that will benefit North Carolina residents. As a result, we hold that the monies that the State derives from the relevant block grant programs are not 'custodial funds' as that term is defined in [G.S.] 143C-1-1(b)." The majority further observed, "After a careful review of the relevant legal authorities, we have been unable to find any provision of the North Carolina State Constitution that creates a category of money that might possibly include the federal block grant monies that lies outside the State treasury or the General Assembly's appropriation authority. The General Assembly enacted the state budget embodied in Session Law 2017-57 in accordance with N.C. Const. art. III, § 5, as it was required to do so. In enacting the annual State budget, the General Assembly was fully entitled to disagree with the recommendations relating to the manner in which the funds derived from the relevant federal block grant programs should be spent set out in the Governor's recommended budget given that 'the legislature has no duty to adopt [the budget] as recommended.' [John V.] Orth [& Paul Martin Newby, *The North Carolina State Constitution*] at 118 [(2d ed. 2013)]. Although the General Assembly did not, as a matter of federal law, have the authority to appropriate the federal block grant monies at issue in this case for a purpose that was not authorized under the relevant block grant statutes, the remedy for any such conduct would be for the federal government to stop payment of block grant monies to the State. *See* 42 U.S.C. § 5311; *see also* 42 U.S.C. § 706(b)(2). As a result, we hold that the block grant funds at issue in this case are contained in the State treasury and subject to the General Assembly's appropriations authority." (Internal quotations omitted.) In a footnote, the majority observed that the Governor did not argue that the General Assembly appropriated the relevant block grant funds in a manner that violated the underlying federal statutes. The majority closed its opinion by stating, "while the executive branch does have the authority under the relevant provisions of the North Carolina

State Constitution to faithfully execute the laws by submitting disbursement requests to the federal government and paying out the block grant funds in a lawful way, nothing in either state or federal law makes the executive branch responsible for determining how the monies derived from the relevant federal block grant programs should be spent. As a result, for all of these reasons, we hold that the enactment of Session Law 2017-57 did not violate the separation of powers or faithful execution clauses of the North Carolina State Constitution." (Upon discretionary review pursuant to G.S. 7A-30 & 7A-31 of a unanimous decision of the Court of Appeals, ___, N.C. App. ___, 837 S.E.2d 7 (2019), affirming an April 2018 final judgment in Wake County Superior Court. Opinion by Justice Ervin. Dissent by Justice Earls.))