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Novack and Macey LLP Scores a Victory in the Illinois Supreme Court

APRIL 5TH, 2011

On March 28, 2011, the Illinois Supreme Court denied a petition for rehearing, making final its December 23, 2010 decision in favor of Novack and Macey’s client. [Link](#). That client, Millennium Park Joint Venture, operates the food concession in Millennium Park, including its flagship restaurant, The Park Grill.

The case began when the Cook County Assessor assessed a real estate tax against the Joint Venture. Novack and Macey attorneys challenged the assessment in the Circuit Court of Cook County, asserting that the Joint Venture’s concession agreement with the Chicago Park District was a nontaxable license, not a taxable lease.

In response, the Assessor argued: (1) that the Circuit Court did not have jurisdiction because the Joint Venture did not exhaust administrative remedies (the “jurisdictional issue”); and (2) that the Concession Agreement was a taxable lease (the “lease/license issue”). Arguing that the Joint Venture’s Concession Agreement was a nontaxable license as to which the Assessor had no legal authority to assess — and relying on the “unauthorized by law” doctrine that dates back to an 1859 Illinois Supreme Court decision — Novack and Macey argued that the Joint Venture was permitted to skip the administrative process and go straight to court. The trial court agreed and entered summary judgment in favor of the Joint Venture.

The Appellate Court affirmed in a decision that was unanimous as to the lease/license issue, and was 2-1 as to the jurisdictional issue. The Supreme Court affirmed. Its decision was unanimous as to the lease/license Issue, and 4-3 on the jurisdictional issue. Novack and Macey attorneys [Steve Novack](#), [John Shonkwiler](#) and [Chris Moore](#) handled the matter, with Steve presenting the oral argument before the three courts.