

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CONCERNED CITIZENS OF
BELLE HAVEN, ET AL.

:

v.

:

Civil No. 3:99CV1467(AHN)

THE BELLE HAVEN CLUB, ET AL.

:

RULING ON MOTIONS TO DISMISS

The defendants' motions to dismiss for lack of subject matter jurisdiction [docs. ## 43 and 45] are GRANTED. The court does not have subject matter jurisdiction over this action under the provisions of the Tax Injunction Act, 28 U.S.C. § 1341, or principles of comity.

The Tax Injunction Act restricts district courts from enjoining, suspending or restraining the assessment, levy or collection of state or municipal taxes where a plain, speedy and efficient remedy may be had in state courts. See 28 U.S.C. § 1341. The Belle Haven Tax District is a political subdivision of the State of Connecticut created pursuant to Conn. Gen. Stat. § 7-324. It is vested with the powers of a tax district and given the right to levy taxes against the members of the Belle Haven Land Owners Association. Here, the plaintiffs' amended complaint [doc. # 35] alleges a challenge to the overall system of taxation within the Belle Haven Tax District, thus invoking the Tax Injunction Act. See Amended

Complaint at ¶¶ 73, 74.

At oral argument on September 12, 2001, the plaintiffs withdrew any challenge enjoining, restraining, or suspending the assessment or collection of state taxes. Plaintiffs maintained that their challenge was specifically limited to the Belle Haven Tax District's expenditure of funds generated by those taxes. Plaintiffs correctly asserted that a constitutional challenge to a revenue spending program may proceed in federal court if the challenge does not also seek to "enjoin, suspend or restrain the assessment, levy or collection" of the tax. See Hoohuli v. Ariyoshi, 741 F.2d 1169, 1177 (9th Cir. 1984) (finding the Tax Injunction Act "explicitly aimed" at revenue production, not revenue spending); see also Levy v. Parker, 346 F.Supp. 897 (E.D. La. 1972) (finding § 1341 inapplicable to a suit that does not seek to enjoin the collection of taxes but that challenges only the unequal distribution of state funds) aff'd 411 U.S. 978 (1973). However, this distinction between tax collection and spending appears nowhere in the amended complaint. The allegations in the amended complaint challenge the tax system as a whole. While the court would have jurisdiction over a claim aimed solely at the expenditure of tax revenue, it lacks jurisdiction over claims challenging the tax system in general. See Hoohuli, 741 F.2d at 1177; Levy, 346 F.Supp. at

904; see also Fair Assessment in Real Estate Ass'n v. McNary,
454 U.S. 100 (1981).

As currently pleaded, plaintiffs' complaint challenges the overall tax system of the Belle Haven Tax District. Further, plaintiffs concede that there is a plain, speedy and efficient remedy under state law to challenge municipal taxes. For these reasons, this court does not have jurisdiction over the plaintiffs' claims. However, plaintiffs are granted leave to file by October 20, 2001 a second amended complaint that explicitly aims its challenge at the expenditure of tax revenue.

SO ORDERED this 24th day of September, 2001, at
Bridgeport, Connecticut.

Alan H. Nevas
United States District Judge