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Court ruling widens options

Taxing Oneidas tops the list

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KRISTA J. KARCH
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One day after a historic U.S. Supreme Court decision in favor of Sherrill -- the state's smallest city -- local officials said the ruling will give them the right to not only collect property tax, but also to enforce codes and sales tax regulations on non-reservation tribal-owned land.

In an 8-1 vote Tuesday, the court ruled that the Oneida Indian Nation, owner of the Turning Stone Resort and Casino and the Sav-On chain of gas stations, must pay taxes on any property it owns outside federally recognized reservation land.

"We don't know what the Oneida Nation will do," said David Schraver, attorney for Madison and Oneida counties in the land claim and the Sherrill case. "We hope and would expect that the Nation will respect the Supreme Court's decision and will follow the law."

The decision ended a five-year battle with the city of Sherrill, but local officials believe the ruling also ends years of financial struggle for towns, cities and counties in which the Nation owns property.

The Nation declined to comment beyond a brief statement released Tuesday that expressed disappointment with the ruling and said their main concern is protecting the 4,200 jobs the casino and resort have created.

The Nation owns about 17,000 acres in Madison and Oneida counties in addition to a 32-acre reservation. Tuesday's ruling returns the case to lower courts for a new decision based on the Supreme Court's findings. Until then, city of Sherrill officials said they will honor a district court injunction that prohibits them from attempting to collect taxes. New York state is preparing to collect sales tax to be in accordance with the ruling, state spokesman Todd Alhart said.

There is no specific time frame for the courts to proceed with reversing prior decisions, but Ira Sacks, the New York City attorney who handled Sherrill's case on a pro bono basis, expects the case to be back in district court hands within a month. The district court will then decide how the ruling changes his rulings on three separate cases between the Nation and the city of Sherrill.

Officials agreed that a refusal from the Nation to comply with the ruling would result in a long litigation process, but said they expect the Nation to pay up.

"If Halbritter has meant what he's said about being a good neighbor, the Oneida Nation will comply with the opinion of the Supreme Court," Sacks said, referring to Oneida Nation representative Ray Halbritter.

Meanwhile, leaders from the five Indian tribes included in Gov. George Pataki's land-claim settlement proposal said the Supreme Court decision "overturns fundamental bedrock principles of Indian law." The "Five Tribes" leaders represented the Oneidas of Wisconsin, the Cayuga Indian Nation of New York, the Saint Regis Mohawk Tribe, the Stockbridge-Munsee Band of Mohicans and the Seneca-Cayuga Tribe of Oklahoma.

The Supreme Court decision does not affect that court's 1985 decision that the state illegally took land from the Oneidas, said Robert Odawi Porter, director of the Center for Indigenous Law, Governance and Citizenship at Syracuse University.

"They reaffirmed the 1985 decision that the state was liable," he said. "What they denied was the Oneida's self-help remedy in buying back land to restore sovereignty."

Odawi Porter, an advocate of Indian land rights, said Tuesday's ruling is a sign of a biased system designed to further the interests of settlers, but local officials say they can now rely on a level tax base to support infrastructure.

Madison County Board of Supervisor's Chairman Rocco DiVeronica said Oneida-owned businesses will now be subject to codes and inspections.

"They will be treated as any other commercial entity," he said. "If taxes are not paid, they will be treated as any other landowner. Steps will be taken for foreclosure."

There will be codes enforcement for each Nation-owned business that is not on the 32-acre reservation near Oneida, he said, and the Nation's Angus beef cattle herd will be subject to USDA standards.

Prior estimates from both counties put annual property tax loss at about \$1.7 million, but officials said Wednesday that the tax bill was a minor piece of the victory.

Sherrill City Manager David Barker said the tax bill that will ultimately be presented to the Oneida Indian Nation will be for about \$70,000, including back taxes -- a rather small sum, he said. The real cause for celebration, he said, is that the city can now govern each property equally.

The Nation now has little choice but to comply with the ruling, unless it seeks federal trust status for the areas in which it owns land, said Christopher Vescey, professor of Native American studies at Colgate University.

"The federal government has a trust responsibility to all Indian nations," he said. "The Oneidas could work with the federal government to establish trust land and create Indian country in the area. I don't know whether the federal government will care to do that, but that is an option."

A Navajo reservation that spans portions of Arizona and New Mexico -- the largest reservation in the United States -- was gained through federal trust status of small portions between the mid-19th century and now, Vescey said.

The current federal government hasn't given the Nation much hope for that possibility in Central New York, he said.

Contact Krista J. Karch at kkarch@utica.gannett.com

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