

ORIGINAL

IN THE SUPREME COURT OF OHIO

NBC-USA HOUSING, INC.-THIRTEEN  
DBA NEW SALEM MANOR,

Appellant,

v.

RICHARD A. LEVIN, TAX  
COMMISSIONER OF OHIO,  
BOARD OF EDUCATION OF THE  
COLUMBUS CITY SCHOOL DISTRICT  
AND FRANKLIN COUNTY AUDITOR

Appellees.

and

NBC-USA HOUSING, INC.-FIVE,  
D/B/A/ LOVE ZION MANOR,

Appellant,

v.

RICHARD A. LEVIN, TAX  
COMMISSIONER OF OHIO,  
BOARD OF EDUCATION OF THE  
COLUMBUS CITY SCHOOL DISTRICT  
AND FRANKLIN COUNTY AUDITOR

Appellees.

CASE NO. 2009-1436

CASE NO. 2009-0919

FILED  
SEP 29 2009  
CLERK OF COURT  
SUPREME COURT OF OHIO

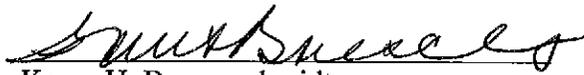
Motion to Consolidate

RECEIVED  
SEP 29 2009  
CLERK OF COURT  
SUPREME COURT OF OHIO

Appellant, NBC-USA Housing, Inc. Thirteen, d/b/a New Salem Manor, in Case No. 2009-1436, moves this Court for an order consolidating the above appeal (2009-1436) together with the pending appeal for NBC-USA Housing, Inc. Five, d/b/a Love Zion Manor, in Case No. 2009-0919. The notices of appeals were filed on August 10, 2009 and May 19, 2009, respectively. Appellants request this court to consolidate both appeals for the reason that they involve factual and legal issues for consideration on appeal that can practicably be presented and disposed of in a single decision. A memorandum in support of this motion is attached hereto and made a part hereof.

Respectfully submitted,

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## **Memorandum In Support of Motion to Consolidate**

This Motion to Consolidate Appeals is made in order to conserve the Court's time and the parties' expenses.

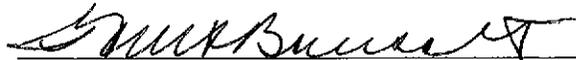
Both of these appeals involve the same four issues. The first issue is whether the BTA unreasonably and unlawfully concluded that it did not have jurisdiction to apply R.C. 5709.121 when the application of R.C. 5709.121 is a permissible alternative argument that sufficiently relates to the appellants' claim that the Tax Commissioner denied the appellants an exemption under R.C. 5709.12. The second issue is whether property owned by a religious nonprofit organization and that is used to provide residential housing and other services to low income resident who are either elderly or disabled is exempt from taxation under R.C. 5709.12 as incorporating the definition of "used exclusively for charitable purposes" provided for in R.C. 5709.121. The third issue is whether the BTA unreasonably and unlawfully required corroborating evidence to support the appellants' witness' testimony that a church is a part owner of the appellants. The fourth issue is whether the BTA erred in determining that the subject properties were not exempt from taxation under R.C. 5709.12.

The facts in both cases are substantially similar, as is the relevant testimony and evidence. Further, the decision of the Board of Tax Appeals is substantially similar for each case. Likewise, the law with respect to both cases involves substantially similar citations and discussions.

Therefore, Appellants urge that it would be in the interests of the Court and of the parties for these two appeals to be consolidated.

Respectfully submitted,

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PROOF OF SERVICE

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