

IN THE SUPREME COURT  
STATE OF OHIO  
APPEAL FROM THE BOARD OF TAX APPEALS

Board of Education of the Groveport )  
Madison Local Schools, )  
 )  
Appellee, )  
 )  
v. )  
 )  
Franklin County Board of Revision, )  
Franklin County Auditor and the Tax )  
Commissioner of the State of Ohio, )  
 )  
Appellees, )  
 )  
and )  
 )  
Public Storage/Public Storage )  
Business Trust (Successor to Hamilton-33 )  
Partnership and John W. Messmore, Tr.), )  
 )  
Appellant. )

SUPREME COURT CASE  
NUMBER: 2012-1476  
  
BOARD OF TAX APPEALS  
CASE NO. 2010-A-1290

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**REPLY BRIEF OF APPELLANT**

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County Board of Revision and  
Franklin County Auditor

Attorney for Appellant Public Storage/Public  
Storage Business Trust (Successor to Hamilton-33  
Partnership and John W. Messmore, Tr.)

**FILED**  
JAN 22 2013  
CLERK OF COURT  
SUPREME COURT OF OHIO

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Commissioner of The State of Ohio

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## LAW AND ARGUMENT

The Appellee Groveport Madison Local Schools Board of Education (hereinafter “Appellee”) has filed a brief in this appeal. The County Appellees and Tax Commissioner have not filed briefs. This Reply Brief of the Appellant will respond to the issues and arguments raised in the Appellee’s brief.

At page 2 in their brief, the Appellee suggests that the owner of property may not have received notices from the Board of Revision. John W. Messmore, Tr., has the same mailing address as the tax mailing address of Hamilton-33 Partnership. Attached as Exhibit “A” is the Franklin County website page for the property which is contained in Exhibit 6-A in the Transcript on Appeal filed by the Board of Revision with the Board of Tax Appeals (hereinafter “Transcript on Appeal”). The page (generated on 3/26/09) shows the tax bill mailing information for Hamilton-33 Partnership as 3540 LaRochelle Dr., Columbus, Ohio 43221. This is the exact same address listed on the Appellant’s Complaint (Supp. at page 1), the Board of Revision hearing notice (Exhibit 3 in the Transcript on Appeal, Exhibit “B” attached), and the Board of Revision decision (Exhibit 7 in the Transcript on Appeal, Exhibit “C” attached). There has been no claim regarding lack of notice in this appeal and the Record does not support such a claim. See also *Knickerbocker Properties, Inc. XLII v. Delaware Cty. Bd. of Revision*, 119 Ohio St.3d 233, 2008-Ohio-3192 (failure to list proper address on a valuation complaint did not deprive the board of revision of jurisdiction over the complaint). The cases cited by the Appellee do not support the Board of Tax Appeals decision and order to dismiss the Appellant’s complaint.

The Appellee argues at page 3 in its brief that standing and jurisdiction are separate issues. That is not the case in this appeal since the Appellee’s motion to dismiss the Appellant’s

complaint was based upon whether the party listed in the Appellant's complaint was an owner of the property. The facts in this appeal show that John W. Messmore was an owner of Hamilton-33 Partnership (the entity holding legal title to the property) and as a result an inquiry into the standing of John W. Messmore was necessary in order to determine the jurisdictional validity of the complaint. The Board of Tax Appeals decision to order a dismissal of the Appellant's complaint was unreasonable and unlawful.

### **CONCLUSION**

For the foregoing reasons, the Appellant Public Storage/Public Storage Business Trust (Successor to Hamilton-33 Partnership and John W. Messmore, Tr.), respectfully requests that this Court reverse the decision and order of the Ohio Board of Tax Appeals and remand the case to the Ohio Board of Tax Appeals with instructions to find the fair market value or true value in money of the subject real property to be \$1,600,000 as of January 1, 2008, for a corresponding taxable value, utilizing a 35% common level of assessment of \$560,000, carried forward

according to law. This was the determination made by the Board of Revision below. No evidence or argument has been submitted in this case to contradict this result.

Respectfully submitted,



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ATTORNEY FOR APPELLANT  
PUBLIC STORAGE/PUBLIC STORAGE  
BUSINESS TRUST (SUCCESSOR TO  
HAMILTON-33 PARTNERSHIP AND JOHN W.  
MESSMORE, TR.)

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Reply Brief of Appellant was mailed via regular U.S. mail, postage prepaid, to William J. Stehle, Esq., Assistant Prosecuting Attorney, 373 S. High Street, 20<sup>th</sup> Floor, Columbus, OH 43215, attorney for Appellees, Franklin County Board of Revision and Franklin County Auditor; Mark H. Gillis, Esq., Rich & Gillis Law Group, LLC, Attorney for Appellee Board of Education of the Groveport Madison Local School District; and Mike DeWine, Ohio Attorney General, State Office Tower, 17th Floor, 30 East Broad Street, Columbus, Ohio 43215-3428, Attorney for Appellee Tax Commissioner of the State of Ohio on this 21<sup>st</sup> day of January, 2013.

  
Todd W. Sleggs

# Joseph W. Testa, Franklin County Auditor

generated on 3/26/2009 3:56:28 AM EDT

## Property Report

<b>Parcel ID</b> 185-000877-00	<b>Address</b> 4350 S HAMILTON RD	<b>Index Order</b> Parcel ID	<b>Card</b> 1 of 4
<b>Owner Information</b> Call 614-462-4663 if incorrect HAMILTON-33 PARTNERSHIP		<b>Tax Bill Mailing Information</b> HAMILTON-33 PARTNERSHIP  3540 LAROCHELLE DR COLUMBUS OH 43221	
<b>Value Information</b> Market Land Value 218,400 Agricultural Value 0 Market Impr. Value 1,948,700 Market Total Value 2,167,100		<b>Legal Description</b> HAMILTON RD 3.781 ACRES R21 T11 S9 185-0042G -020-00	
<b>Sales Data</b> Sale Amount \$190,000 Date 06/26/1998 Deed Type GW # of Parcels 1 Conveyance # 13740 Exempt #		<b>Building Data</b> Year Built 2004	
Tax Dist 185 MADISON TWP-GROVEPORT CORP. School Dist 2507 GROVEPORT MADISON LSD Land Use [481] MINI WAREHOUSE Neighborhood 07100		Board of Revision No Homestead No 2.5% Reduction No Assessments No CDQ Year	
2008 Annual Taxes \$49,514.12		2008 Total Taxes Paid \$0.00	

### Improvements

Type	Improvement	Dimensions	Measurements	Year Built
13	BLACK TOP PAVING	IRREGULAR	50200	2004

# EXHIBIT A

# Board of Revision

Franklin County • Ohio

February 24, 2010

John Messmore Tr  
3540 La Rochelle Dr  
Columbus OH 43221

Paula Brooks  
Commissioner

Edward J. Leonard  
Treasurer

Clarence E. Mingo II  
Auditor

Victoria K. Anthony  
Clerk

BOR: 08-006022 A&B

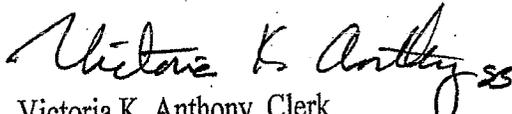
You are informed that the above complaint is set for hearing with the Franklin County Board of Revision on **March 11, 2010 at 9:00 A.M.** The hearing will be held at **373 South High Street, 20<sup>th</sup> Floor, Columbus, Ohio, in the Board Hearing Room.**

As required by the Ohio Revised Code (ORC) Section 5715.19 (B), notice was given to the local Board of Education that you had filed a complaint requesting a depreciation in value. The school board has filed the attached counter-complaint and will be represented at the hearing.

Enclosed is a copy of the **Rules and Practice and Procedure** of the Franklin County Board of Revision. Please examine these rules carefully as they specify the type of evidence you are **required** to present at the hearing.

Any questions you might have should be directed to this office.

Sincerely,



Victoria K. Anthony, Clerk  
Franklin County Board of Revision

VKA/osd

Cc: Jeffrey A. Rich, Esq.  
James Hunter  
623 Mohawk Street  
Columbus OH 43206

## REFUND POLICY

To ensure the accuracy of all refunds, proof of payment for each tax year under appeal is required. Mortgage escrow statements or cancelled checks are considered acceptable proof of payment. Any questions should be directed to the Tax Accounting section (614-462-3205) in the office of Auditor Clarence E. Mingo II.

EXHIBIT B

# Board of Revision

Franklin County • Ohio

MAY 27, 2010

JOHN MESSMORE TR  
3540 LA ROCHELLE DR  
COLUMBUS, OH 43221

Complaint No: BOR 08-6022 A&B  
Parcel: 185-000877  
Hearing Date: MARCH 11, 2010

John O'Grady  
Commissioner

Edward J. Leonard  
Treasurer

Clarence E. Mingo II  
Auditor

Victoria K. Anthony  
Clerk

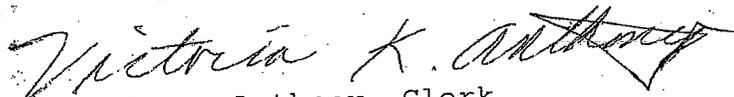
After Consideration of the above Complaint, it is the decision of the Board of Revision that a decrease of valuation in the amount of \$567,100 is warranted. This change is effective as of tax lien date JANUARY 1, 2008 and carried forward.

The property's new fair market value is \$1,600,000. The new taxable value is 35% or \$560,000.

You may appeal this decision by filing the proper notice of appeal with either the Ohio Board of Tax Appeals, (O.R.C. 5717.01), or with the Court of Common Pleas, (O.R.C. 5717.05). Such appeals must be filed within 30 days after the mailing of this notice.

Please call (614) 462-3913 if we can be of further assistance.

Sincerely,



Victoria K. Anthony, Clerk  
Franklin County Board of Revision

VKA/bn

CC: JEFFREY A. RICH, ESQ.  
JAMES HUNTER

#### REFUND POLICY

To ensure the accuracy of all refunds, the Board of Revision **REQUIRES** a copy of the cancelled check(s) for each tax year collection period under property that transferred during or after the tax year under appeal.

EXHIBIT <