

CENTRAL

IN THE SUPREME COURT OF OHIO

UNIVERSITY HOSPITALS HEALTH)
SYSTEMS, INC.)

vs.)

CUYAHOGA COUNTY BOARD OF)
REVISION, ET AL.)

13-0936

On appeal from the Cuyahoga County)
Court of Appeals, Eighth Appellate)
District)

Court of Appeals Case No. 98783

MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT BOARD OF
EDUCATION OF THE WARRENSVILLE HEIGHTS CITY SCHOOL DISTRICT

Thomas A. Kondzer (0017096) (COUNSEL OF RECORD)

Michael T. Schroth (0081073)

Kolick & Kondzer

John P. Desimone (0062330)

24650 Center Ridge Road, Suite 110

Westlake, Ohio 44145

(440) 835-1200

(440) 835-5878 – Facsimile

tkondzer.com@kolick-kondzer.com

michael.schroth@kolick-kondzer.com

john.desimone@kolick-kondzer.com

Counsel for Appellant, Board of Education of
the Warrensville Heights City School District

Lawrence V. Lindberg (0025703) (COUNSEL OF RECORD)

Karl Fanter (0075686)

Baker & Hostetler LLP

3200 PNC Center

1900 East Ninth Street

Cleveland, Ohio 44114-3485

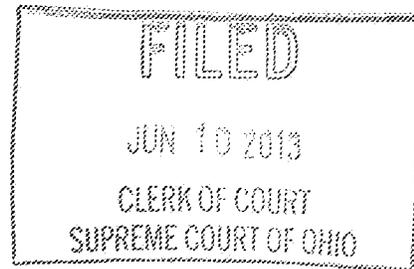
(216) 620-0200

(216) 696-0740 – Facsimile

llindberg@bakerlaw.com

kfanter@bakerlaw.com

Counsel for Appellee, University Hospitals
Health System, Inc.



Timothy J. McGinty (0024626)
Cuyahoga County Prosecutor
Mark R. Greenfield (0015469) (COUNSEL OF RECORD)
Assistant Prosecuting Attorney
1200 Ontario Street, 8th Floor
Cleveland, Ohio 44113
(216) 443-7799
(216) 443-7602 – Facsimile
mgreenfield@prosecutor.cuyahogacounty.us

Counsel for Appellees, Cuyahoga County Board of
Revision and Cuyahoga County Fiscal Officer

Michael DeWine (0009181) (COUNSEL OF RECORD)
Ohio Attorney General
State Office Tower, 14th Floor
30 East Broad Street
Columbus, Ohio 43215
(614) 466-4320
(614) 466-8226 – Facsimile

Counsel for Appellee, Joseph W. Testa, Tax Commissioner of Ohio

TABLE OF CONTENTS

	<u>PAGE</u>
EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST	1
STATEMENT OF CASE AND FACTS.....	3
ARGUMENTS IN SUPPORT OF PROPOSITIONS OF LAW.....	7
Proposition of Law No. 1:	
An unregistered fictitious entity lacks any legal capacity to litigate a complaint and lacks standing to file a complaint with a county board of revision. <i>Buckeye Foods v. Cuyahoga Cty. Bd. of Revision</i> , 78 Ohio St. 3d 459, 1997-Ohio-199, 678 N.E.2d 917, followed.....	7
Proposition of Law No. 2:	
The naming of a property owner on a complaint filed with the board of Revision is information that goes to the core of procedural efficiency. A failure to do so renders the complaint invalid.....	11
CONCLUSION	13
<u>APPENDIX</u>	<u>APPX. PAGE</u>
Judgment of the Eighth District Court of Appeals, <i>University Hospitals Health System, Inc. v. Cuyahoga Cty. Bd. of Revision</i> , Case No. 98783 (Apr. 25, 2013).....	1
Decision and Order of the Ohio Board of Tax Appeals, <i>University Hospitals Health System, Inc. v. Cuyahoga Cty. Bd. of Revision</i> , BTA No. 2012-A-116 (Jul. 11, 2012).....	13
CERTIFICATE OF SERVICE.....	FINAL PAGE

EXPLANATION OF WHY THIS CASE IS A CASE OF
PUBLIC OR GREAT GENERAL INTEREST

The issue presented in this case is whether a person may use a fictitious name to file a complaint with a board of revision under R.C. 5715.19 to request a decrease in value of real property for real estate tax purposes, and whether such a complaint confers jurisdiction on a board of revision if the complainant also uses a fictitious name to identify the property owner.

In *Buckeye Foods v. Cuyahoga Cty. Bd. of Revision*, 78 Ohio St.3d 459, 1997-Ohio-199, 678 N.E.2d 917, this court held that a complaint does not confer jurisdiction on a board of revision if the complaint is filed under a fictitious name that is not a legal entity. The Eighth District Court of Appeals held contrary to *Buckeye Foods*, and ruled that a complaint may be filed under a fictitious name if the party seeking to use the fictitious name is a large employer in the county and is well known in the county. The court of appeals' ruling creates one rule for Cuyahoga County and a different rule for the rest of the state. The court of appeals has held in this case that a complainant may file a complaint using a fictitious name rather than its legal name if the complainant is a large corporation that employs a large number of people in the county. This ruling will apply only in Cuyahoga County because this court has already ruled in *Buckeye Foods* that a person may not use a fictitious name to file a complaint. Presumably all counties other than Cuyahoga will follow the ruling of this court in *Buckeye Foods*.

This case is one of public or great general interest because this court should resolve the conflict created by the Eighth District Court of Appeals. Fairness demands a uniform rule throughout the state. A complainant should not be permitted to use a fictitious name in Cuyahoga County under the ruling of this case but not be permitted to use a fictitious name in the rest of the state under the ruling in *Buckeye Foods*. Additionally, this court should address the

inherent inequity in the court of appeals' ruling. The Eighth District Court of Appeals ruled that an entity may file a complaint using a fictitious name if it is a large entity, employs a large number of employees, and is well known. Under the court of appeals' ruling, a small entity that employs only a few people would not be able to use a fictitious name. This discriminatory rule based on the size of the entity and the number of people it employs has no rational basis in the law and should be overturned. If the decision in *Buckeye Foods* is to be reversed, it should be done by the Ohio Supreme Court and not the Eighth District Court of Appeals.

The parties, the board of revision, the board of tax appeals, and the common pleas courts, require guidance on who can file a complaint contesting taxable value. The Board of Education of the Warrensville Heights City School District ("BOE") believes that to have standing to file a complaint, the complainant must be a legal entity that has the legal capacity to file a complaint with the county board of revision. In addition, the true property owner must be named on the complaint for the complaint to be jurisdictionally valid. The BOE further believes that the parties, the boards, and the courts should be able to rely on the complaint itself and not be required to conduct an additional investigation to determine if the complaint is good enough to invoke jurisdiction. However, if it makes no difference whether the complainant has legal existence, no difference if the titled owner is not named on the complaint, or if the board of revision, the board of tax appeals and the common pleas court are required to conduct an evidentiary hearing to determine if the complaint is jurisdictionally valid, then such a rule should come from the Supreme Court and have state wide application.

STATEMENT OF THE CASE AND FACTS

In March of 2010 a complaint was filed with the Cuyahoga County Board of Revision by Robert V. Secrist, Jr., attorney, seeking a decrease in the value of the real property identified as permanent parcel number 901-41-002. On line one of the complaint the owner of the property was identified as "University Hospital" with no address provided. Line two of the complaint which asks for the name of the complainant if not the owner was left blank, meaning the complaint was purportedly filed by the owner, "University Hospital." On line three the complainant's agent was identified as "Robert V. Secrist, Esq.," again with no address. The complaint was signed by Robert V. Secrist, Esq., with his title being "Attorney and Director, Corporate Real Estate." Mr. Secrist did not state for whom he was an attorney or director.

"University Hospital", the only name to appear on the complaint was not a legal entity and was not the owner of the property for which a decrease in value was requested. "University Hospital" was not registered with the Ohio Secretary of State by any legal entity. Contrary to what was stated on the face of the complaint, after the complaint was filed it was determined that the property was actually owned by "University Hospitals Health System, Inc." There is no dispute that "University Hospital" was not the property owner, no dispute that "University Hospital" had no legal existence and no dispute that "University Hospitals Health Systems, Inc." was the owner and was not named. In fact, it was shown below that there are over a hundred entities that have registered with the Ohio Secretary of State with some form of "University Hospital" or "University Hospitals" in their name. Since "University Hospital" had no legal existence, the question then became who was actually filing the complaint. Presumably, it was actually being filed by one of these one hundred plus entities, none of which were disclosed on

the complaint. It was impossible to tell from the face of the complaint exactly who was filing the complaint. Since the complainant, "University Hospital," had no existence and could not file a complaint, someone or some entity had to be filing the complaint.

The board of revision dismissed the complaint and the Board of Tax Appeals ("BTA") affirmed. In a two to one decision, the Eighth District Court of Appeals reversed, reasoning in paragraph three of its decision that "the omission of a required element of the complaint will not necessarily result in the dismissal of a complaint. Not only must there be an omission from the complaint, but that omission must go to the 'core of procedural efficiency.'" The court of appeals stated in paragraph six of its decision that "University Hospitals Health System, Inc. is one of the largest private employers in Cuyahoga County. Its use of the name "University Hospital" in branding and advertising is ubiquitous in Cuyahoga County. While there may be other hospitals in this state using the name "University" hospital, none are located in Cuyahoga County and it would be irrational to conclude so as an initial step in determining the identity of the complainant in this case."

The court of appeals held that the complaint was valid, stating in paragraph nine of its decision that "[w]hile precision in a complaint is always preferred and one's legal counsel should be keenly aware of the ramifications for lack of precision, the use of the name "University Hospital," in this county, could rationally refer to only University Hospital Health System, Inc. The complaint was therefore consistent with the core of procedural efficiency and should not have been dismissed." The court made this statement even through there was no evidence in the record as to whether or not University Hospitals Health System, Inc. is one of the largest employers in the county, nor was there any evidence to conclude that "University Hospital"

could rationally refer only to University Hospitals Health System, Inc. Nor did the court of appeals explain why the number of employees is even relevant. Is the court of appeals saying that a defectively completed complaint should be valid for a large employer but not for a small employer?

Stated another way, the Eighth District Court of Appeals found, apparently by judicial notice, that since University Hospitals Health System, Inc. was so big and the use of the name “University Hospital” was so well known in Cuyahoga County, the complaint was valid. This decision is contrary to law, changes the legal question of capacity and standing into a factual determination question of how well known is a property owner, or how big. If the property owner is big enough, or well-known enough, it can file complaints with the board of revision using an unregistered fictitious name. The court of appeals also disregarded the holding by this court in *Buckeye Foods v. Cuyahoga Cty. Bd. of Revision*, 78 Ohio St.3d 459, 461, 1997-Ohio-199, 678 N.E.2d 917, 199, wherein the Court stated “[s]ince Buckeye Foods is fictitious, it cannot file a complaint seeking a reduced valuation for real estate under R.C. 5715.13.”

The dissent argued that the complaint was invalid. The dissent argued that the property owner must be correctly identified so that proper notice can be provided. The dissent further noted that the Ohio Supreme Court held in *Buckeye Foods* that an unregistered fictitious entity lacks the capacity to sue. The dissent is correct.

Not only is the majority decision of the court of appeals contrary to law and not supported by evidence in the record, the decision will lead to needless future litigation. Under the Eighth District Court of Appeals’ ruling, an evidentiary hearing will be required to determine if an unregistered fictitious entity is large enough, or important enough, or ubiquitous enough, to

a presumably reasonable person in the county in which the complaint is filed so that a reasonable person would know who is actually filing the complaint. A board of revision will not be able to rely on the complaint that has been filed, but will instead have to conduct additional investigation to determine if the complainant actually has the capacity to file under the particular facts presented.

To make matters more difficult, the board of revision is required to provide notice of a complaint to the property owner. Under the court of appeals' holding, the board of revision will have to conduct an evidentiary hearing to determine who is the actual property owner and who filed the complaint. Only then will the board of revision be able to send notice to the true owner, and only then determine if the true owner is big enough or important enough to be considered synonymous with the fictitious name stated on the complaint.

The decision by the court of appeals is contrary to law and should be reversed. Under the court's decision, and at least in Cuyahoga County, the board of revision will not be able to rely upon the complaint itself when determining who filed the complaint and to whom notice must be provided. It will have to make an independent investigation and conduct a hearing to determine just who is the actual property owner and who filed the complaint. Once this investigation is done, the board of revision will then have to make a factual finding as to whether the property owner and entity who filed the complaint are big enough, are locally well known enough, and have enough employees in the county, so that a reasonable person could only believe that the fictitious name used on the complaint identifies the entity who filed the complaint and the actual owner. While the court of appeals appeared to rely on judicial notice for these findings, this appears to be only because the court found that University Hospitals Health System, Inc. was so

well known that it was of a different class than entities that are only moderately well known. The BOE submits that all of this is unworkable and unfair to smaller “lesser known” entities. The decision by the court of appeals should therefore be reversed and the decision of the BTA affirmed, albeit possibly on alternative grounds than those stated by the BTA.

ARGUMENTS IN SUPPORT OF PROPOSITIONS OF LAW

Proposition of Law No. 1:

An unregistered, fictitious entity lacks any legal capacity to litigate a complaint and lacks standing to file a complaint with a county board of revision. *Buckeye Foods v. Cuyahoga Cty. Bd. of Revision*, 78 Ohio St.3d 459, 678 N.E.2d 917, 1997-Ohio-199, followed.

R.C. 5715.19 provides for the filing of complaints with a county board of revision and states who may file the complaint. R.C. 5715.13 also applies, stating “the county board of revision shall not decrease any valuation unless a party affected thereby or who is authorized to file a complaint under section 5715.19 of the Revised Code makes and files with the board a written application therefor.” The statutory requirements set forth in these two statutes are jurisdictional and full compliance is required to invoke the jurisdiction of the board of revision to hear a complaint. *N. Olmsted v. Cuyahoga Cty. Bd. of Revision*, 62 Ohio St.2d 218, 404 N.E.2d 757 (1980); *Stanjim Co. v. Mahoning Cty. Bd. of Revision*, 38 Ohio St.2d 233, 313 N.E.2d 14 (1974). The complaint filed by University Hospital failed to adhere to the statutory requirements. More particularly, as an unregistered, fictitious entity that was not the titled owner of the subject property, University Hospital lacked the capacity to file a complaint with the board of revision. As a result, the board of revision properly dismissed the complaint.

As an initial matter, the terms “capacity” and “standing” are often used interchangeably. This is not entirely correct. Capacity has been defined as “[a] legal qualification, such as legal

age, that determines one's ability to sue or be sued, to enter into a binding contract, and the like." Standing has been defined as "[a] party's right to make a legal claim or seek judicial enforcement of a duty or right." *Black's Law Dictionary* 199, 1413 (7th Ed.1999). Stated another way, capacity determines whether an entity has the right to go through the court house doors, while standing determines whether, once through the doors, an entity has a right to make a legal claim. As explained below, as an unregistered, fictitious entity, "University Hospital" lacked the capacity to litigate the complaint and had no standing to file the complaint. As a result, the board of revision and the BTA properly ordered the complaint dismissed.

R.C. 1329.01(A)(2) defines "fictitious name" as "a name used in business or trade that is fictitious and that the user has not registered or is not entitled to register as a trade name." R.C. 1329.01(B) authorizes any person to register a trade name with the Ohio Secretary of State. As a result, once a name has been registered, it is no longer a fictitious name. "University Hospital" was not registered with the Secretary of State and was therefore a fictitious name. The entity that filed the complaint with the board of revision, "University Hospital," did not exist.

R.C. 1329.10(B) states that "[n]o person doing business under a trade name or fictitious name shall commence or maintain an action in the trade name or fictitious name in any court in this state ..." Since "University Hospital" had not registered with the Ohio Secretary of State and was a fictitious name, it was not permitted to commence or maintain an action. In *Buckeye Foods v. Cuyahoga Cty. Bd. of Revision*, 78 Ohio St.3d 459, 461, 1997-Ohio-199, 678 N.E.2d 917, this court stated:

A person places himself in a precarious position when he operates under a fictitious name. A person doing business under an unregistered, fictitious name lacks the legal capacity to sue ...

In *Queen City Valves, Inc. v. Peck* (1954), 161 Ohio St. 579, 583-584, 53 O.O. 430, 432-433, 120 N.E.2d 310, 313, we said:

“This court has no disposition to be hypertechnical and to deny the right of appeal on captious grounds but it cannot ignore statutory language which demands that certain conditions be met to confer jurisdiction upon an appellate tribunal.”

Because full compliance with R.C. 5715.13 is necessary and jurisdictional, we require a complainant to be an entity that has legal capacity.

The court concluded that the complaints filed by Buckeye Foods must be dismissed, stating “since Buckeye Foods is a fictitious name that has no capacity to litigate these complaints, it is not the party affected by these complaints.” *Id.* at 462.

Further, it is not the responsibility of the board of revision, the BTA, the common pleas court, the court of appeals, or this court to conduct an investigation of facts and evidence outside the complaint itself so as to determine if the complaint is valid. Instead, the responsibility rests squarely with the complainant. The complainant must establish on the filed complaint that it is jurisdictionally valid. *See, e.g., Columbia Toledo Corp. v. Lucas Cty. Bd. of Revision*, 76 Ohio St.3d 361, 1996-Ohio-383, 667 N.E.2d 1180. To be jurisdictionally valid, the complainant must be an entity that has the capacity to file, and the true property owner must be named.

The board of revision and the BTA properly looked to the complaint that was actually filed, and did not, as was done by the court of appeals, make the factual determination whether “University Hospital” was so well known that it was synonymous with “University Hospitals Health Systems, Inc.” The court of appeal’s ruling creates an unworkable state of the law, is contrary to this court’s holding in *Buckeye Foods, supra.*, and is inherently unfair to other less well known potential complainants.

Moreover, when deciding whether the complaint filed by “University Hospital” was valid, the court of appeals, and to some extent the BTA, focused on whether there was or could be any confusion between the named complainant and property owner, University Hospital, and the actual and unnamed property owner, University Hospitals Health Systems, Inc. While both the court of appeals and the BTA did mention standing and capacity, neither the court of appeals nor the BTA relied on a lack of capacity when deciding the case. This was incorrect; the question of whether there would be any confusion is not relevant. Instead, the issue is simply whether “University Hospital,” an entity that was not registered with the Ohio Secretary of State and was an unregistered fictitious entity, had the capacity to file any complaint whatsoever. It did not. Clearly, as an unregistered fictitious entity that did not exist, University Hospital was not the property owner and was not a party affected by the complaint. It lacked the capacity to litigate the complaint and lacked standing to file the complaint. The dismissal of the complaint should have been affirmed by the court of appeals.

Finally, by failing to name the property owner on the complaint, and particularly in light of the number of registered entities in Ohio whose names include University Hospital or Hospitals, it was impossible to know who filed the complaint. R.C. 5715.19 authorizes, among various persons, the property owner to file or a person owning property in the county. In a situation such as the one at hand, it would be impossible for the board of revision to determine who was filing the complaint. Since “University Hospital” was an unregistered, fictitious entity, it could not file a complaint; therefore, the complaint must have been filed by another. This information was not disclosed. The court of appeals held, apparently as a matter of law, that one

must presume “University Hospital” can only mean “University Hospitals Health Systems, Inc. This holding is improper.

The decision of the Eighth District Court of Appeals should be reversed and the complaint filed by “University Hospital” dismissed. The failure of the complainant to have any legal existence and the failure to name the true property owner are threshold jurisdictional issues and there is no balancing test, nor is there any factual determination to be made with respect to whether the unregistered, fictitious entity is so well known that it can commence an action.

Where the complainant does not exist and the true owner is not identified the complaint must be dismissed.

Proposition of Law No. 2:

The naming of a property owner on a complaint filed with the board of revision is information that goes to the core of procedural efficiency. A failure to do so renders the complaint invalid.

Regardless of the lack of capacity on the part of University Hospital to file a complaint with the board of revision, the failure to name the true owner of the property, “University Hospital Health System, Inc.,” rendered the complaint invalid.

It has long been the position of the BTA that a complainant must name at least one owner on the complaint. In its decision in this case the BTA stated at pages 4-5:

Courts have held that for a complaint to be valid, it must include all information that goes to the core of procedural efficiency...Further, a complaint must name at least one owner of the property on the complaint form in order to satisfy the core jurisdictional requirements. *City of Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Jan. 22, 1999), BTA No. 1998-L-138, unreported; *Trotwood-Madison City School Dist.*, supra; *Cedar Heights Co. v. Cuyahoga Cty. Bd. of Revision* (July 20, 2001), BTA Nos. 2000-J-1714, et al., unreported. In defining the term “owner,” the court, in *Victoria Plaza Ltd. Liab. Co. v. Cuyahoga Cty. Bd. of Revision* (1999), 86 Ohio St.3d 181, 183, reiterated that “in *Bloom v. Wides* (1955), 165 Ohio St. 138, 141, *** the court

stated, “where the term “owner” is employed with reference to land or buildings, it is commonly understood to mean the person who holds the legal title.”

The BTA’s rationale for this position, i.e., that at least one owner be named on the complaint, is that “it assists boards of revision in ensuring the statutorily required notice is given to the entity holding title to the property.” Decision and Order at 5. As noted by the BTA in the decision below, there are times where title has transferred but no deed has been recorded. Absent an identification of the property owner, the board of revision cannot notify the owner that a complaint has been filed against its property. In addition, it is only by accurately naming the property owner that the board of revision or the BTA can “for determin[e] who the complainant is and whether such complainant has standing to file the complaint in question.” Decision and Order, page 6.

In this same line, boards of revision are required to provide various notices to the property owner, including notice of the filing of a complaint, notice of hearing, and notice of decision. R.C. 5715.19, 5715.20. The property owner then has the right to appeal the decision by the board of revision, regardless if it filed a complaint with the board of revision. R.C. 5717.01, 5717.05. Various time periods do not begin to run until these notices are sent. See, e.g., *2200 Carnegie LLC v. Cuyahoga Cty. Bd. of Revision*, 135 Ohio St.3d 284, 2012-Ohio-5691, 986 N.E.2d 919; *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision*, 96 Ohio Std. 3d 1527, 2002-Ohio-5303, 776 N.E.2d 107.

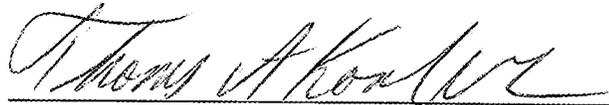
None of this can be done without the true property owner being named on the complaint. The board of revision cannot determine if the complaint is jurisdictionally valid, cannot send the required notices, and time periods do not start to run. For this reason, the BTA’s position that the failure to name the property owner on the complaint requires dismissal of the complaint is

correct. The court of appeals erred when holding that a complaint was valid even though the true property owner was not named.

CONCLUSION

The court of appeals committed reversible error when it validated the complaint filed by an unregistered, fictitious entity. The entity that filed the complaint, "University Hospital," was not the owner, did not exist, and could neither litigate a complaint nor file a complaint. In addition, the court of appeals erred by validating a complaint that failed to name the true owner of the property. The BOE respectfully requests the Supreme Court accept jurisdiction and review the decision by the Eighth District Court of Appeals.

Respectfully submitted,



Thomas A. Kondzer (0017096)
(COUNSEL OF RECORD)
Kolick & Kondzer



John P. Desimone (0062330)

24650 Center Ridge Road, Suite 110
Westlake, Ohio 44145
(440) 835-1200
(440) 835-5878 – Facsimile
tkondzer.com@kolick-kondzer.com
john.desimone@kolick-konder.com

Counsel for Appellant, Board of Education of
the Warrensville Heights City School District

APPENDIX

RECEIVED
APR 26 2013

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 98783

**UNIVERSITY HOSPITALS HEALTH
SYSTEM, INC.**

PLAINTIFF-APPELLANT

vs.

**CUYAHOGA COUNTY BOARD OF
REVISION, ET AL.**

DEFENDANTS-APPELLEES

**JUDGMENT:
REVERSED AND REMANDED**

Administrative Appeal from the
Board of Tax Appeals
Case No. 2012-A-116

BEFORE: Stewart, A.J., Boyle, J., and Kilbane, J.

RELEASED AND JOURNALIZED: April 25, 2013

ATTORNEYS FOR APPELLANT

Lawrence Lindberg
Karl Fanter
Baker & Hostetler, L.L.P.
3200 PNC Center
1900 East Ninth Street
Cleveland, OH 44114

ATTORNEYS FOR APPELLEE CUYAHOGA COUNTY BOARD OF REVISION

Timothy J. McGinty
Cuyahoga County Prosecutor

FILED AND JOURNALIZED
PER APP.R. 22(C)

BY: Mark R. Greenfield
Assistant County Prosecutor
The Justice Center
1200 Ontario Street, 8th Floor
Cleveland, OH 44113

APR 25 2013
CUYAHOGA COUNTY CLERK
OF THE COURT OF APPEALS
By Deputy

ATTORNEYS FOR APPELLEE BOARD OF EDUCATION OF THE WARRENSVILLE HEIGHTS CITY SCHOOL DISTRICT

Thomas A. Kondzer
John P. Desimone
Michael T. Schroth
Kolick & Kondzer
24650 Center Ridge Road, Suite 110
Westlake, OH 44145

FOR BOARD OF TAX APPEALS

Joseph W. Testa
Tax Commissioner
Ohio Department of Taxation
4485 Northland Ridge Boulevard
Columbus, OH 43229

MELODY J. STEWART, A.J.:

{¶1} Appellant University Hospitals Health Systems, Inc. filed a valuation complaint with the Cuyahoga County Board of Revision, seeking a downward valuation of property it owned located in the village of Orange. The Warrensville Heights Board of Education appeared and filed a motion to dismiss the complaint because it had been filed in the name of “University Hospital,” and not in the true legal name of “University Hospitals Health System, Inc.” The board of revision dismissed the complaint on authority of *Buckeye Foods v. Cuyahoga Bd. of Revision*, 78 Ohio St.3d 459, 461, 1997-Ohio-199, 678 N.E.2d 917, finding the complaint’s use of an unregistered, fictitious name barred standing. The Ohio Board of Tax Appeals (the “board”) affirmed on different grounds, finding that a complainant’s name went to the “core of procedural efficiency.” Although the board eschewed a bright-line test as to what constitutes a properly identified owner on a complaint, it found that the name “University Hospital” was more than a minor variation of “University Hospitals Health Systems, Inc.” and that it did not properly indicate the entity holding legal title to the property, thus justifying the board of revision’s decision to dismiss the complaint. The sole assignment of error contests this ruling.

{¶2} R.C. 5715.19(A)(1) provides that “any person,” including corporations, owning taxable real property in the county or in a taxing district with territory in the county can file a complaint regarding any determination

affecting any real property in the county. Nevertheless, there are certain jurisdictional prerequisites a party needs to establish before filing a complaint, including proof that the party is, in fact, an entity entitled to file a valuation complaint. This is important because “R.C. 5715.13 directs that a board of revision not ‘decrease any valuation’ unless a party who is authorized by R.C. 5715.19(A) to do so files the complaint.” *Toledo Pub. Schools Bd. of Edn. v. Lucas Cty. Bd. of Revision*, 124 Ohio St.3d 490, 2010-Ohio-253, 924 N.E.2d 345, ¶ 10, quoting *Middleton v. Cuyahoga Cty. Bd. of Revision*, 74 Ohio St.3d 226, 227-228, 658 N.E.2d 267 (1996). “Full compliance with R.C. 5715.19 and 5715.13 is necessary before a county board of revision is empowered to act on the merits of a claim.” *Stanjim Co. v. Mahoning Cty. Bd. of Revision*, 38 Ohio St.2d 233, 235, 313 N.E.2d 14 (1974).

{¶3} Nevertheless, the omission of a required element of the complaint will not necessarily result in the dismissal of a complaint. Not only must there be an omission from the complaint, but that omission must go to the “core of procedural efficiency.” *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision*, 80 Ohio St.3d 591, 596, 687 N.E.2d 723 (1998). “[A] statutory requirement [is] mandatory and hence jurisdictional when the requirement is (1) imposed on the appellant itself and (2) relates to the informative content of the document by which the administrative proceeding is instigated.” *Shinkle v. Ashtabula Cty. Bd. of Revision*, Slip Opinion No. 2013-Ohio-397, ¶ 19, citing *Zier v. Bur. of*

Unemp. Comp., 151 Ohio St. 123, 126-127, 84 N.E.2d 746 (1949). While the Supreme Court has never “encouraged or condoned disregard for procedural schemes logically attendant to the pursuit of a substantive legal right, it has been unwilling to find or enforce jurisdictional barriers not clearly statutorily or constitutionally mandated, which tend to deprive a supplicant of a fair review of his complaint on the merits.” *Nucorp, Inc. v. Bd. of Revision*, 64 Ohio St.2d 20, 22, 412 N.E.2d 947 (1980).

{¶4} In its opinion in this case, the board acknowledged that it does not necessarily consider the complainant’s name to be an inviolable component of the core of procedural efficiency:

“[W]e have never adopted a ‘bright line’ test as to what constitutes a properly identified owner on a complaint, and have avoided raising jurisdictional barriers in instances of minor differences in an owner’s actual name versus the name listed on a complaint.” *Paul Grammas Family L.P. v. Clermont Cty. Bd. of Revision* (Interim Order, Feb. 27, 2004), BTA No. 2003-T-905, 2004 Ohio Tax LEXIS 364 at *8, unreported, at 6. However, this board has also determined that some degree of specificity is required. *See, e.g., Lakeside Place, Inc. v. Cuyahoga Cty. Bd. of Revision* (Mar. 29, 2011), BTA Nos. 2008-K-2286, 2295, 2011 Ohio Tax LEXIS 601, unreported; *Jacobs West St. Clair L.P. v. Cuyahoga Cty. Bd. of Revision* (Nov. 5, 2004), BTA No. 2003-T-609, 2004 Ohio Tax LEXIS 1716, unreported, wherein the board decided that failure to properly identify the corporate ending in a corporate owner’s name on line one of a real property tax complaint renders such complaint jurisdictionally invalid, as each ending contemplates a different legal entity.

Univ. Hosps. Health Sys. v. Cuyahoga Cty. Bd. of Revision, BTA No. 2012-A-116, 2012 Ohio Tax LEXIS 3399 (July 11, 2012), at 5-6.

{¶5} The board's refusal to set forth a bright-line test has resulted in decisions inconsistent with the one it issued in this case. Notably, in *Cleveland Mun. School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, BTA Nos. 1999-M-1348, et seq., 2001 Ohio Tax LEXIS 1031 (June 15, 2001), the board found no jurisdictional defect in a complaint filed in the name of "Sherwin Williams Company" instead of the correct name, "Sherwin Williams Development Corporation." And in *Automatic Data Processing Community Urban Redevelopment Corp. v. Hamilton Cty. Bd. of Revision*, BTA Nos. 2003-J-87, et seq., 2004 Ohio Tax LEXIS 1110 (July 23, 2004), the board found no jurisdictional defect in a complaint listing "Automatic Data Processing" instead of "Automatic Data Processing Community Urban Redevelopment Corporation."

{¶6} We see no significant difference between this case and the two scenarios noted above. And like Sherwin Williams, University Hospitals Health System, Inc. is one of the largest private employers in Cuyahoga County. Its use of the name "University Hospital" in branding and advertising is ubiquitous in Cuyahoga County. While there may be other hospitals in this state using the name "University" hospital, none are located in Cuyahoga County and it would be irrational to conclude so as an initial step in determining the identity of the complainant in this case.

{¶7} In reaching this decision, we note that the board appeared to decide this case counter to its own stated rationale. In its opinion, it stated that one of the purposes in requiring a complainant to correctly identify the owner on a complaint against the valuation of real property was to assist the boards of revision in ensuring that statutory notice is given to the entity holding title to the property. *Automatic Data* at 4-5. Yet there is no question that University Hospitals Health System, Inc. filed a complaint on its own behalf. It plainly had notice of its own actions. And as we previously noted, the name “University Hospitals,” like “Sherwin Williams,” is a well-known company name in Cuyahoga County and hardly capable of confusion with any other entity.

{¶8} For similar reasons, the second purpose stated by the board — the need for determining who the complainant is and whether the complainant has standing to file the complaint — was likewise not served by the board’s decision. As the board noted, it has refused to apply a bright-line test for determining what constitutes a properly identified owner on a complaint. By making this statement, it implicitly recognized that the name of a party does not necessarily go to the core of procedural efficiency. Tellingly, this was not the first case filed with the board of revision by University Hospitals Health System, Inc. At the time this complaint was filed, University Hospitals Health System, Inc. had another case pending concerning the valuation of a different property. As in this case, the Warrensville Heights Board of Education challenged the

complaint. With the same parties involved (even the same counsel) in continuing litigation, it is difficult to understand how the board could conclude that the present complaint could make it difficult to determine the complainant's identity.

{¶9} We conclude that the board's decision was unsupported by its own reasoning and served only to "deprive a supplicant of a fair review of [its] complaint on the merits." *Nucorp*, 64 Ohio St.2d at 22. While precision in a complaint is always preferred and one's legal counsel should be keenly aware of the ramifications for lack of precision, the use of the name "University Hospital," in this county, could rationally refer only to University Hospitals Health System, Inc. The complaint was therefore consistent with the core of procedural efficiency and should not have been dismissed.

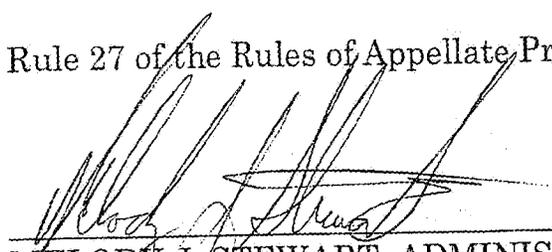
{¶10} This cause is reversed and remanded to the Board of Tax Appeals for further proceedings consistent with this opinion.

It is ordered that appellant recover of appellees its costs herein taxed

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Board of Tax Appeals to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.


MELODY J. STEWART, ADMINISTRATIVE JUDGE

MARY J. BOYLE, J., CONCURS;

MARY EILEEN KILBANE, J., DISSENTS WITH SEPARATE OPINION

MARY EILEEN KILBANE, J., DISSENTING:

{¶11} I respectfully dissent. I would affirm the board's decision dismissing the valuation complaint filed by University Hospitals Health System, Inc.

{¶12} Here, there is no dispute that University Hospitals Health System, Inc. named "University Hospital" as the owner of the property on the tax complaint. However, "University Hospital" is not the legal owner of the property, nor is it a legal entity. Rather, "University Hospital" is a fictitious entity. In the response filed by the Warrensville Heights Board of Education with the board of revision, which was admitted into the record, it noted that there are 12 entities whose names include the words "University Hospital" registered with the Ohio Secretary of State. For example, "University Hospital, Inc." is a corporation located in Cincinnati, which appears to be affiliated with

the University of Cincinnati Hospital. An additional search of records revealed 104 entities with the words "University Hospitals."

{¶13} In *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision*, 87 Ohio St.3d 363, 2000-Ohio-452, 721 N.E.2d 40, the Ohio Supreme Court cited several statutory provisions intended to ensure that proper notice is provided to property owners in tax valuation contests before county boards of revision. *Id.* at 365 (where the court cited to R.C. 5715.19(B), R.C. 5715.19(C), R.C. 5715.12, and R.C. 5715.20.) It is essential that the owner of the property be correctly identified in order to ensure that the requisite notice is provided. Furthermore, the "complainant [must] be an entity that has legal capacity." *Buckeye Foods*, 78 Ohio St.3d at 461, 678 N.E.2d 917. This is because "[a] person places himself in a precarious position when he operates under a fictitious name. A person doing business under an unregistered, fictitious name lacks the legal capacity to sue." (Citations omitted.) *Id.*

{¶14} In its opinion affirming the board of revision's decision to dismiss the complaint, the tax appeals board stated:

Requiring a complainant to correctly identify the owner on line 1 of a complaint serves two distinct and important purposes. First, it assists boards of revision in ensuring the statutorily required notice is given to the entity holding title to the property. * * * [T]he only manner by which a board of revision is placed on notice regarding the identity of the owner is through disclosure made by the complaint. * * *

Second, accurately naming a property owner on line 1 of a complaint is also necessary for determining who the complainant is and whether such complainant has standing to file the complaint in question. In *Bd. of Edn. of the Mt. Vernon City Schools v. Knox Cty. Bd. of Revision* (Mar. 16, 2010), BTA No. 2009-K-2876, this board discussed the impact of such information:

It is not the responsibility of a county board of revision to review material and attempt to discern a complainant's intent. Cf. *Columbia Toledo Corp. v. Lucas Cty. Bd. of Revision*, 976 Ohio St.3d 361, 1996-Ohio-383, 667 N.E.2d 1180. The information elicited by the complaint form allows the county board of revision to determine who the owner and complainant are and, if these entities are different, whether notice of such filing must be issued pursuant to R.C. 5715.19(B). Appellant's failure to accurately identify the owner, particularly when it must be inferred that the owner and the complainant are identical, renders the present complaint deficient. *Id.* at 4.

The board concluded:

the omission in the listing of the owner's name on the instant complaint to be more than minor; "University Hospital" did not own the subject property at the time the complaint was filed and, as such, it was not properly listed as the property owner on line 1 of the subject complaint.²

* * *

[fn. 2] It should also be acknowledged that the BOE has disclosed through its responses that there are other entities doing business in Ohio which have registered with the Ohio Secretary of State whose names contain some reference to "University Hospital(s)." See Appellee's 1st Response, Ex.B. See, also, *Buckeye Foods*[.]

{¶15} The majority, in addressing the board's conclusion that the owner listed on the present complaint made it difficult to determine the complainant's identity, refers to a prior tax complaint filed by University Hospitals Health

System, Inc. involving the same parties and counsel. While the same parties and counsel are involved, there is a significant difference between the previous complaint and the complaint in the instant case. In the prior case, University Hospitals Health System, Inc. named "University Hospitals Health System, Inc." as the owner of the property, whereas in the instant case, it named "University Hospital" as the owner of the property. Unlike the instant complaint, the prior complaint properly listed the property owner and was filed by the proper legal entity with the capacity to sue.

{¶16} Therefore, based on the foregoing, I would find that the valuation complaint was properly dismissed.

OHIO BOARD OF TAX APPEALS

University Hospitals Health System, Inc.,)	
)	
Appellant,)	CASE NO. 2012-A-116
)	
vs.)	(REAL PROPERTY TAX)
)	
Cuyahoga County Board of Revision,)	DECISION AND ORDER
Cuyahoga County Fiscal Officer, and Board)	
of Education of the Warrensville Heights)	
City School District,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant	-	Baker & Hostetler LLP Lawrence Lindberg 3200 National City Center 1900 East Ninth Street Cleveland, Ohio 44114-3485
For the County Appellees	-	William D. Mason Cuyahoga County Prosecuting Attorney Mark R. Greenfield Assistant Prosecuting Attorney 1200 Ontario Street Courts Tower, 8 th Floor Cleveland, Ohio 44113
For the Appellee Bd. of Edn.	-	Kolick & Kondzer John P. Desimone 24650 Center Ridge Road, Suite 110 Westlake, Ohio 44145

Entered **JUL 11 2012**

Ms. Margulies, Mr. Johrendt, and Mr. Williamson concur.

Upon receipt of this appeal, through which appellant challenges a decision of the Cuyahoga County Board of Revision ("BOR") which indicated that

appellant's complaint was dismissed by the board of revision, this board made inquiry of the parties regarding the propriety of the BOR's action. The appellant responded, asserting the BOR's dismissal was improper, while the board of education's response seeks affirmance of the BOR's decision. This matter is decided upon the responses filed by the property owner and board of education and the statutory transcript ("S.T."), certified to this board by the county board of revision.

Per the decision letter issued by the Cuyahoga County Board of Revision, the BOR dismissed the property owner's complaint "pursuant to *Buckeye Foods v. Cuyahoga County Board of Revisions*, 78 Ohio St., 3d 459 [sic]." In *Buckeye Foods v. Cuyahoga Cty. Bd. of Revision* (1997), 78 Ohio St.3d 459, the court held: (1) the issue of standing is jurisdictional and cannot be waived; (2) a party, which does so under its fictitious name, lacks standing to file a decrease complaint when it has no legal or financial relationship with the subject property that would qualify it as the "real party in interest."

Neither the appellant property owner nor the appellee board of education disputes that the property is owned by University Hospitals Health System, Inc.¹ The original decrease complaint, dated March 30, 2010, lists "University Hospital" on line 1 as the owner of the subject property. S.T., Ex. A. While county records appear to list the owner as "University Hospital," see Appellant's Response, Ex. D, upon further review, it appears that when a property owner's name exceeds the number of allowable characters on one line, e.g., "University Hospital Health

¹ Per the quit claim deed, recorded May 5, 1999. S.T., Ex. D at Ex. A.

Systems, Inc.” its name is split between the two lines provided. See Appellee’s 2nd Response, Ex. 1. In addition, even on the records that the property owner contends the county listed the owner’s name as “University Hospital,” “University Hospital Health Systems Inc.” appears on the same screen. See Appellant’s 1st Response, Ex. D, Transfer History, which lists the grantee of the subject property as “University Hospital Health Systems Inc.”

In its response to this board, the property owner states that :

“Essentially, there needs to be adequate information about the property owner, the property and the claimed valuation amount so the Auditor can give the owner or school board, as applicable, notice of any complaint which exceeds the valuation dispute minimum. In this case, the information in the Complaint was more than adequate. There can be no confusion regarding the property in question, the amount in dispute, or the real party in interest. There is nothing missing which would impair or limit the Auditor’s ability to give notice of the filing to the School Board or the School Board’s ability to respond.” (Emphasis sic.) Appellant’s 1st Response at 5.

In support of the foregoing, the property owner cites to two decisions of this board, specifically, *Cleveland Municipal School District Board of Education v. Cuyahoga Cty. Bd. of Revision* (June 15, 2001), BTA Nos. 1999-M-1348, et seq., unreported and *Automatic Data Processing Community Urban Redevelopment Corporation v. Hamilton Cty. Bd. of Revision* (July 23, 2004), BTA Nos. 2003-J-87, et seq., unreported. In both cases, this board determined that jurisdiction was established with the boards of revision, even though the owners’ names, as listed on line one of the subject complaints, were not entirely accurate, e.g., “Sherwin Williams

Company” instead of “Sherwin Williams Development Corporation” and “Automatic Data Processing” instead of “Automatic Data Processing Community Urban Redevelopment Corporation.” Appellant claims that the name listed on the complaint was not the owner’s fictitious name, but simply a “clerical error [that] did not cause any hardship in identifying the property at issue or in obtaining information from the proper party.” Appellant’s 1st Response at 8. Finally, appellant suggests that “the cases distinguish between complaints filed by taxpayers and complaints filed by others. In circumstances where a school board is filing a tax complaint, the information needs to be sufficient so the owner can be noticed. With respect to complaints filed by the owner, the owner does not require notice of the filing and the standard applicable to owner’s name is less strict. In this case, the Complaint brought all of the parties to the matter with no confusion as to the property involved or the real parties in interest.” Appellant’s 1st Response at 8.

Courts have held that for a complaint to be valid, it must include all information that goes to the core of procedural efficiency. *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision* (1998), 80 Ohio St.3d 591; *Trotwood-Madison City School Dist. v. Montgomery Cty. Bd. of Revision* (June 30, 1997), BTA No. 1995-S-1282, unreported; *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Dec. 18, 1998), BTA No. 1998-J-481, unreported, reversed on other grounds, (2000), 87 Ohio St.3d 363; *Ritz Carlton Hotel Partnership v. Cuyahoga Cty. Bd. of Revision* (May 11, 2001), BTA No. 1998-L-355, unreported. Further, a complaint must name at least one owner of the property on the complaint form in

order to satisfy the core jurisdictional requirements. *City of Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Jan. 22, 1999), BTA No. 1998-L-138, unreported; *Trotwood-Madison City School Dist.*, supra; *Cedar Heights Co. v. Cuyahoga Cty. Bd. of Revision* (July 20, 2001), BTA Nos. 2000-J-1714, et al., unreported. In defining the term "owner," the court, in *Victoria Plaza Ltd. Liab. Co. v. Cuyahoga Cty. Bd. of Revision* (1999), 86 Ohio St.3d 181, 183, reiterated that "in *Bloom v. Wides* (1955), 164 Ohio St. 138, 141, *** the court stated, 'where the term "owner" is employed with reference to land or buildings, it is commonly understood to mean the person who holds the legal title.'"

Requiring a complainant to correctly identify the owner on line 1 of a complaint serves two distinct and important purposes. First, it assists boards of revision in ensuring the statutorily required notice is given to the entity holding title to the property. While it may be asserted that such information is already in the possession of the auditor, this board has seen numerous instances arise in which a property owner has yet to record a change in title to property and the only manner by which a board of revision is placed on notice regarding the identity of the owner is through the disclosure made by the complainant. See, e.g., *Gammarino v. Hamilton Cty. Bd. of Revision* (Dec. 1, 1995), BTA No. 1995-S-356, unreported (holding that even though not filed with the county recorder, a limited warranty deed evidencing a conveyance of property is sufficient to prove ownership for purposes of allowing the filing with a county board of revision of a decrease complaint); *Women's Fed. Sav. &*

Loan v. Cuyahoga Cty. Bd. of Revision (Interim Order, June 9, 2006), BTA No. 2005-M-1501, unreported.

Second, accurately naming a property owner on line 1 of a complaint is also necessary for determining who the complainant is and whether such complainant has standing to file the complaint in question. In *Bd. of Edn. of the Mt. Vernon City Schools v. Knox Cty. Bd. of Revision* (Mar. 16, 2010), BTA No. 2009-K-2876, this board discussed the impact of such information:

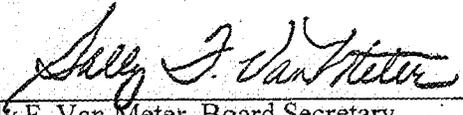
“It is not the responsibility of a county board of revision to review materials and attempt to discern a complainant’s intent. Cf. *Columbia Toledo Corp. v. Lucas Cty. Bd. of Revision* (1996), 76 Ohio St.3d 361, 1996 Ohio 383, 667 N.E.2d 1180. The information elicited by the complaint form allows the county board of revision to determine who the owner and complainant are and, if these entities are different, whether notice of such filing must be issued pursuant to R.C. 5715.19(B). Appellant’s failure to accurately identify the owner, particularly when it must be inferred that the owner and complainant are identical, renders the present complaint deficient.” *Id.* at 4.

“[W]e have never adopted a ‘bright line’ test as to what constitutes a properly identified owner on a complaint, and have avoided raising jurisdictional barriers in instances of minor differences in an owner’s actual name versus the name listed on a complaint.” *Paul Grammas Family L.P. v. Clermont Cty. Bd. of Revision* (Interim Order, Feb. 27, 2004), BTA No. 2003-T-905, unreported, at 6. However, this board has also determined that some degree of specificity is required. See, e.g., *Lakeside Place, Inc. v. Cuyahoga Cty. Bd. of Revision* (Mar. 29, 2011), BTA Nos. 2008-K-2286, 2295, unreported; *Jacobs West St. Clair L.P. v. Cuyahoga Cty. Bd. of Revision* (Nov. 5, 2004), BTA No. 2003-T-609, unreported, wherein the board

decided that failure to properly identify the corporate ending in a corporate owner's name on line one of a real property tax complaint renders such complaint jurisdictionally invalid, as each ending contemplates a different legal entity.

Based upon the foregoing, we find the omission in the listing of the owner's name on the instant complaint to be more than minor; "University Hospital" did not own the subject property at the time the complaint was filed and, as such, it was not properly listed as the property owner on line 1 of the subject complaint.² Accordingly, based upon the foregoing, the decision of the Cuyahoga County Board of Revision dismissing the property owner's complaint for lack of jurisdiction is hereby affirmed.

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.


Sally F. Van Meter, Board Secretary

² It should also be acknowledged that the BOE has disclosed through its response that there are other entities doing business in Ohio which have registered with the Ohio Secretary of State whose names contain some reference to "University Hospital(s)." See Appellee's 1st Response, Ex. B. See, also, *Buckeye Foods*, supra.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Memorandum in Support of Jurisdiction of Appellant Board of Education of the Warrensville Heights City School District" has been served upon the following this 7th day of June by ordinary U.S. mail delivery:

Lawrence V. Lindberg (COUNSEL OF RECORD)
Baker & Hostetler LLP
3200 PNC Center
1900 East Ninth Street
Cleveland, Ohio 44114-3485

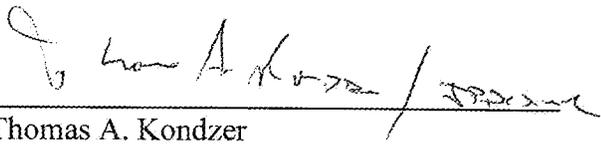
Counsel for Appellee, University Hospitals
Health System, Inc.

Mark R. Greenfield (COUNSEL OF RECORD)
Assistant Prosecuting Attorney
1200 Ontario Street, 8th Floor
Cleveland, Ohio 44113

Counsel for Appellees, Cuyahoga County Board of
Revision and Cuyahoga County Fiscal Officer

Michael DeWine (COUNSEL OF RECORD)
Ohio Attorney General
State Office Tower, 14th Floor
30 East Broad Street
Columbus, Ohio 43215

Counsel for Appellee, Joseph W. Testa, Tax Commissioner of Ohio



Thomas A. Kondzer
Counsel for Appellant, Board of Education of
the Warrensville Heights City School District