

ORIGINAL

IN THE SUPREME COURT OF OHIO

Board of Education of the Groveport
Madison Local Schools,

Appellant,

v.

Franklin County Board of Revision,
Franklin County Auditor, and Lutheran Social
Services of Central OH Groveport Housing

Appellees.

Case No. 14-0882

Appeal from the Ohio Board of
Tax Appeals - Case No. 2012-146

**NOTICE OF APPEAL OF THE BOARD OF EDUCATION OF THE
GROVEPORT MADISON LOCAL SCHOOLS**

Mark Gillis (0066908)
COUNSEL OF RECORD
Rich & Gillis Law Group, LLC
6400 Riverside Drive, Suite D
Dublin, Ohio 43017
(614) 228-5822
Fax (614) 540-7474
mgillis@richgillislawgroup.com

Attorneys for Appellant
Board of Education of the
Groveport Madison Local School District

Mike Dewine (0009181)
Ohio Attorney General
30 East Broad Street, 17th Floor
Columbus, Ohio, 43215
Attorney for Appellee Tax Commissioner

Timothy A. Pirtle, Esq. (0040970)
2935 Kenny Road, Suite 225
Columbus, Ohio 43221

(614) 340-7323
Fax (614) 340-7324
timpirtle@aol.com

Attorney for Appellee Lutheran Social
Services of Central OH Groveport Housing

Ron O'Brien (0017245)
Franklin County Prosecuting Attorney
William J. Stehle (0077613)
COUNSEL OF RECORD
Assistant Prosecuting Attorney
373 South High St., 20th Floor
Columbus, OH 43215

Attorneys for Appellees County Auditor
and Board of Revision

FILED
MAY 29 2014
BOARD OF TAX APPEALS
COLUMBUS, OHIO

FILED
MAY 29 2014
CLERK OF COURT
SUPREME COURT OF OHIO

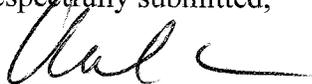
IN THE SUPREME COURT OF OHIO

Board of Education of the Groveport Madison Local Schools,	:	
	:	Case No. _____
Appellant,	:	
	:	
v.	:	
	:	Appeal from the Ohio Board of Tax Appeals - Case No. 2012-146
Franklin County Board of Revision, Franklin County Auditor, and Lutheran Social Services of Central OH Groveport Housing	:	
	:	
Appellees.	:	

NOTICE OF APPEAL OF THE BOARD OF EDUCATION OF THE GROVEPORT MADISON LOCAL SCHOOLS

Now comes the Appellant, the Board of Education of the Groveport Madison Local School District, and gives notice of appeal to the Supreme Court of Ohio from the decision of the Ohio Board of Tax Appeals in the case of *Board of Education of the Groveport Madison Local Schools v. Franklin County Board of Revision, Franklin County Auditor, and Lutheran Social Services of Central OH Groveport Housing*, BTA Case No. 2012-146, rendered on May 1, 2014, a copy of which is attached hereto as Exhibit B. The Errors complained of therein are set forth herein as Exhibit A.

Respectfully submitted,



Mark Gillis (0066908)
Rich & Gillis Law Group, LLC
6400 Riverside Drive, Suite D
Dublin, Ohio 43017
(614) 228-5822

Attorneys for Appellant
Board of Education of the Groveport Madison Local
School District

EXHIBIT A - STATEMENT OF ERRORS

(1) The Ohio Board of Tax Appeals (BTA) erred in holding that an appraisal is competent and probative evidence of value merely because: (1) “It provides an opinion of value as of tax lien date; (2) “was prepared for tax valuation purposes;” and (3) was “attested to by a qualified expert.”

(2) The BTA erred by failing to conduct a de novo review of the evidence in the record;

(3) The BTA erred by failing to specifically state the facts and figures upon which its decision is based.

(4) The BTA erred by failing to independently determine the true value of the subject property.

(5) The BTA erred in accepting an appraisal report as the true value of the subject property when said report failed to value more than a third of the subject property.

(6) The BTA erred in accepting an appraisal report as the true value of the subject property when none of the appraiser’s sale comparables or rent comparables were for age-restricted properties such as the subject property.

(7) The BTA erred in accepting an appraisal in which none of the sale comparable properties or rent comparable properties contained therein were designed or used for the same purpose as the subject property and no adjustments were made to account for the differences between the properties.

(8) The BTA erred by failing to specifically address any of the arguments presented by the Board of Education that demonstrated the flaws in and insufficiency of the evidence presented by the property owners and the case law rejecting similar appraisal reports.

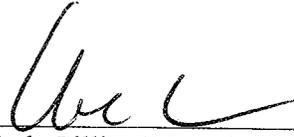
(9) The BTA erred in accepting an appraisal report in which all of the sale comparables were admittedly inferior to the subject property and did not contain the same types of common areas and other amenities that the subject property contains.

(10) The BTA erred by failing to accept the Auditor's original value as the default value of the subject property because the record is devoid of competent and probative evidence to support a reduction in value for the subject property.

(11) The BTA erred in holding that Lutheran Social Services of Central OH Groveport Housing sustained its burden of proof before the Franklin County Board of Revision to prove that the subject property was over-valued and further failed to prove the true value of the subject property.

PROOF OF SERVICE ON THE OHIO BOARD OF TAX APPEALS

I hereby certify that a true and complete copy of the foregoing notice of appeal was served upon the Clerk of the Ohio Board of Tax Appeals, as is evidenced by its filing stamp set forth hereon.



Mark Gillis (0066908)
Attorney for Appellant

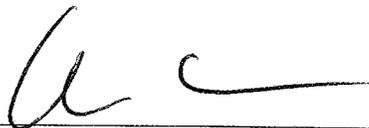
CERTIFICATE OF SERVICE BY CERTIFIED MAIL

I hereby certify that a true and complete copy of the foregoing notice of appeal was served on the following by certified mail, return receipt requested, with postage prepaid, this 29 th day of May, 2014.

Timothy A. Pirtle, Esq.
2935 Kenny Road, Suite 225
Columbus, Ohio 43221

Mike Dewine
Appellee Ohio Attorney General
30 East Broad Street, 17th Floor
Columbus, Ohio, 43215

Ron O'Brien
Franklin County Prosecutor
William J. Stehle, Esq.
Assistant County Prosecutor
373 South High St., 20th Floor
Columbus, Ohio 43215



Mark Gillis (0066908)
Attorney for Appellant

IN THE SUPREME COURT OF OHIO

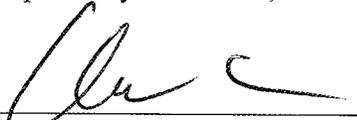
Board of Education of the Groveport Madison Local Schools,	:	
	:	Case No. _____
Appellant,	:	
	:	
v.	:	
	:	Appeal from the Ohio Board of Tax Appeals - Case No. 2012-146
Franklin County Board of Revision, Franklin County Auditor, and Lutheran Social Services of Central OH Groveport Housing	:	
	:	
Appellees.	:	

REQUEST TO CERTIFY ORIGINAL PAPERS TO THE SUPREME COURT OF OHIO

TO: The Clerk of the Ohio Board of Tax Appeals:

The Appellant, who has filed a notice of appeal with the Supreme Court, makes this written demand upon the Clerk and this Board to certify the record of its proceedings and the original papers of this Board and statutory transcript of the Board of Revision in the case of *Board of Education of the Groveport Madison Local Schools v. Franklin County Board of Revision, Franklin County Auditor, and Lutheran Social Services of Central OH Groveport Housing*, BTA Case No. 2012-146, rendered on May 1, 2014, to the Supreme Court of Ohio within 30 days of service hereof as set forth in R.C. 5717.04.

Respectfully submitted,



 Mark Gillis (0066908)
 Rich & Gillis Law Group, LLC

Attorneys for Appellant Board of Education

OHIO BOARD OF TAX APPEALS

Board of Education of the Groveport Madison))	CASE NO(S). 2012-146
Local Schools,)	
)	(REAL PROPERTY TAX)
Appellant(s),)	
)	DECISION AND ORDER
vs.)	
)	
Franklin County Board of Revision, et al.,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant	-	Rich & Gillis Law Group, LLC Jeffrey A. Rich 6400 Riverside Drive, Suite D Dublin, OH 43017
For the County Appellees	-	Ron O'Brien Franklin County Prosecuting Attorney William J. Stehle Assistant Prosecuting Attorney 373 South High Street, 20 th Floor Columbus, OH 43215
For the Property Owner	-	Timothy A. Pirtle, Esq. 2935 Kenny Road, Suite 225 Columbus, OH 43221

Entered **MAY 01 2014**

Mr. Williamson, Mr. Johrendt, and Mr. Harbarger concur.

Appellant appeals decisions of the board of revision (“BOR”) which determined the value of the subject property, parcel number 185-001833, for tax years 2009, 2010 and 2011. This matter is now considered upon the notice of appeal, the transcript certified by the BOR pursuant to R.C. 5717.01 and written argument submitted by the parties. For tax year 2009, the subject property was initially assessed \$2,050,000. A decrease complaint was filed with the BOR seeking a reduced true value. The appellant, the affected board of education (“BOE”), filed a counter-complaint objecting to the request. The BOR issued decisions reducing the true value of the subject property, consistent with the property owner’s appraisal evidence, for tax years 2009, 2010 and 2011, which led to the present appeal.

When cases are appealed from a board of revision to this board, an appellant must prove the adjustment in value requested. See, e.g., *Shinkle v. Ashtabula Cty. Bd. of Revision*, 135 Ohio St.3d 227, 2013-Ohio-397. As the Supreme Court of Ohio has consistently held, “[t]he best method of determining value, when such information is available, is an actual sale of such property

between one who is willing to sell but not compelled to do so and one who is willing to buy but not compelled to do so. *** However, such information is not usually available, and thus an appraisal becomes necessary.” *State ex rel. Park Invest. Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410.

Such is the case in this matter, as the record does not indicate that the subject property “recently” transferred through a qualifying sale. Upon review of property owner’s appraisal evidence, which provides an opinion of value as of tax lien date, was prepared for tax valuation purposes, and attested to by a qualified expert, we find the appraisal to be competent and probative and the value conclusion reasonable and well-supported.

However, as to tax year 2011, we must conclude that the BOR did not have jurisdiction to determine the subject property’s value. As previously noted, the underlying complaint and counter-complaint were filed challenging value for tax year 2009, the second year of the triennial period in Franklin County, which would carry forward through the remaining year(s) of the triennial period, i.e., tax year 2010. “The carryover provision, which is set forth in R.C. 5715.19(D), is cut off by either the filing of a new complaint or the statutorily required reappraisal to be performed by the county auditor.” *Jezeq v. Cuyahoga Cty. Bd. of Revision* (Mar. 11, 2013), BTA No. 2010-Y-3831, unreported at 6, fn. 2. As a result, in this matter, any carryover would have ended because the county auditor was statutorily required to conduct the sexennial reappraisal of real property in tax year 2011. *AERC Saw Mill Village Inc., v. Franklin Cty. Bd. of Revision*, 127 Ohio St.3d 44, 2010-Ohio-4468. Therefore, this matter, as it relates to tax year 2011, is remanded to the BOR with instructions to vacate its decision and afford the parties an opportunity to present evidence of value as of January 1, 2011 tax lien date.¹

It is therefore the order of this board that the subject properties’ true and taxable values, as of January 1, 2009 and January 1, 2010, were as follows:

PARCEL NUMBER	TRUE VALUE	TAXABLE VALUE
185-001833	\$1,130,000	\$395,500

It is the order of the Board of Tax Appeals that the subject property be assessed in conformity with this decision and order.

¹ It should be noted that the BOR conducted its hearing on November 9, 2011 and issued its decision on January 6, 2012. However, as the complaint attached to the BOE’s brief demonstrates, the property owner filed a complaint challenging the subject property’s value for tax year 2011 on March 26, 2012. Therefore, it is clear that the BOR inappropriately adjusted the subject property’s value for tax year 2011.

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.

A handwritten signature in cursive script, appearing to read "A.J. Groeber".

A.J. Groeber, Board Secretary