

ORIGINAL

IN THE SUPREME COURT OF OHIO

Boards of Education of the South-Western City Schools and Columbus City Schools :

Case No. 14-0884

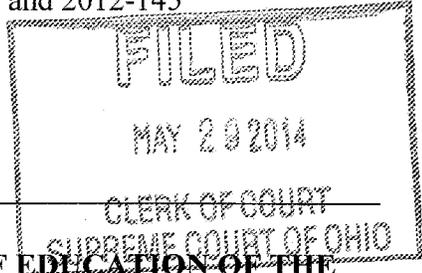
Appellants,

v.

Franklin County Board of Revision, Franklin County Auditor, and Lutheran Social Services of Central Ohio Grove City Housing, Inc. And Lutheran Social Services of Central Ohio, Inc. :

Appeal from the Ohio Board of Tax Appeals - Case Nos. 2012-144 and 2012-145

Appellees.



NOTICE OF APPEAL OF THE BOARDS OF EDUCATION OF THE SOUTH-WESTERN CITY SCHOOLS AND COLUMBUS CITY SCHOOLS

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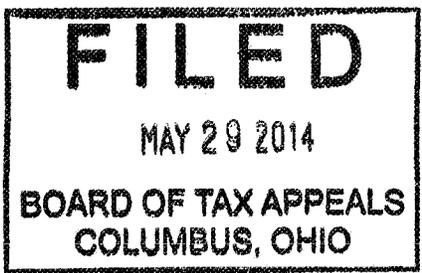
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Attorney for Appellees Lutheran Social Services of Central Ohio Grove City Housing, Inc. and Lutheran Social Services of Central Ohio, Inc.

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Attorneys for Appellees County Auditor and Board of Revision

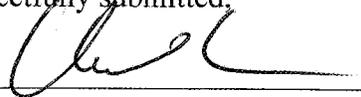
**IN THE SUPREME COURT OF OHIO**

Boards of Education of the South-Western City Schools and Columbus City Schools	:	
	:	Case No. _____
Appellants,	:	
	:	
v.	:	
	:	Appeal from the Ohio Board of
Franklin County Board of Revision,	:	Tax Appeals - Case Nos. 2012-144
Franklin County Auditor, and Lutheran Social	:	and 2012-145
Services of Central Ohio Grove City Housing, Inc.	:	
And Lutheran Social Services of Central Ohio, Inc.	:	
	:	
Appellees.	:	

NOTICE OF APPEAL OF THE BOARDS OF EDUCATION OF THE  
SOUTH-WESTERN CITY SCHOOLS AND COLUMBUS CITY SCHOOLS

Now comes the Appellants, the Boards of Education of the South-Western City School District and the Columbus City 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 South-Western City Schools v. Franklin County Board of Revision, Franklin County Auditor, and Lutheran Social Services of Central Ohio Grove City Housing, Inc. and Lutheran Social Services of Ohio, Inc.*, BTA Case Nos. 2012-144 and 2012-145, 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,



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Attorneys for Appellants Boards of Education of the  
South-Western and Columbus City School Districts

## 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 properties.

(5) The BTA erred in accepting appraisal reports as the true value of the subject properties when said reports failed to value all of the real estate.

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

(7) The BTA erred in accepting appraisal reports 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.

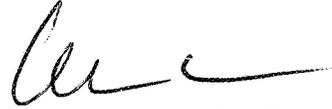
(9) The BTA erred in accepting appraisal reports in which all of the sale comparables were admittedly inferior to the subject property and did not contain the same types of common areas and other amenities that the subject property contains.

(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 Ohio Grove City Housing, Inc. and Lutheran Social Services, Inc. sustained their respective burdens of proof before the Franklin County Board of Revision to prove that the subject properties were over-valued and further failed to prove the true value of the subject properties.

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.



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Mark Gillis (0066908)  
Attorney for Appellants

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 29th 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  
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Ron O'Brien  
Franklin County Prosecutor  
William J. Stehle, Esq.  
Assistant County Prosecutor  
373 South High St., 20<sup>th</sup> Floor  
Columbus, Ohio 43215



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Mark Gillis (0066908)  
Attorney for Appellants

**IN THE SUPREME COURT OF OHIO**

Boards of Education of the South-Western City Schools and Columbus City Schools	:	
Appellants,	:	Case No. _____
v.	:	
Franklin County Board of Revision, Franklin County Auditor, and Lutheran Social Services of Central Ohio Grove City Housing, Inc. And Lutheran Social Services of Central Ohio, Inc.	:	Appeal from the Ohio Board of Tax Appeals - Case Nos. 2012-144 and 2012-145
Appellees.	:	

REQUEST TO CERTIFY ORIGINAL PAPERS TO THE SUPREME COURT OF OHIO

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

The Appellants, who have 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 *Board of Education of the South-Western City Schools v. Franklin County Board of Revision, Franklin County Auditor, and Lutheran Social Services of Central Ohio Grove City Housing, Inc. and Lutheran Social Services of Ohio, Inc.*, BTA Case Nos. 2012-144 and 2012-145, 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,



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

Attorneys for Appellant Board of Education

**OHIO BOARD OF TAX APPEALS**

Board of Education of the South-Western City Schools,	)	CASE NO(S). 2012-144 and 2012-145
	)	
Appellant(s),	)	(REAL PROPERTY TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Franklin County Board of Revision, et al.,	)	
	)	
Appellees.	)	

APPEARANCES:

- |                             |   |   |
|-----------------------------|---|---|
| For the Appellant           | - | Rich & Gillis Law Group, LLC<br>Jeffrey A. Rich<br>6400 Riverside Drive, Suite D<br>Dublin, OH 43017  |
| For the County<br>Appellees | - | Ron O'Brien<br>Franklin County Prosecuting Attorney<br>William J. Stehle<br>Assistant Prosecuting Attorney<br>373 South High Street, 20 <sup>th</sup> Floor<br>Columbus, OH 43215 |
| For the Property<br>Owner   | - | Timothy A. Pirtle, Esq.<br>2935 Kenny Road, Suite 225<br>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 properties, parcel numbers 040-001519 and 010-021378, for tax years 2008, 2009, 2010 and 2011. These matters are now considered upon the notices of appeal, the transcripts certified by the BOR pursuant to R.C. 5717.01, the stipulated exhibits submitted in lieu of merit hearing(s) and written argument submitted by the parties. For tax year 2008, the subject properties were initially assessed \$2,348,500 for parcel number 040-001519 and \$1,480,000 for parcel number 010-021378. Decrease complaints were filed with the BOR seeking reductions to the subject properties’ values. The appellant, the affected board of education (“BOE”), filed counter-complaints objecting to the requests. The BOR issued decisions reducing the true values of the subject properties, consistent with the property owner’s requests, for tax years 2008, 2009, 2010 and 2011, which led to the present appeals.

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 these matters, as the records do not indicate that the subject properties “recently” transferred through qualifying sales. Upon review of property owner’s appraisal evidence, which provides opinions of value as of tax lien date, was prepared for tax valuation purposes, and attested to by a qualified expert, we find the appraisals to be competent and probative and the value conclusions reasonable and well-supported.

However, as to tax year 2011, we must conclude that the BOR did not have jurisdiction to determine the subject properties’ value. As previously noted, the underlying complaints and counter-complaints were filed challenging value for tax year 2008, the first year of the triennial period in Franklin County, which would carry forward through the remaining years of the triennial period, i.e., tax years 2009 and 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.” *Jezek v. Cuyahoga Cty. Bd. of Revision* (Mar. 11, 2013), BTA No. 2010-Y-3831, unreported at 6, fn. 2. As a result, in these matters, any carryover would have ended because the county auditor was statutorily required to conduct the sexennial reappraisal of real property. *AERC Saw Mill Village Inc., v. Franklin Cty. Bd. of Revision*, 127 Ohio St.3d 44, 2010-Ohio-4468. Therefore, these matters, as they relate to tax year 2011, are remanded to the BOR with instructions to vacate their decisions and afford the parties an opportunity to present evidence of value as of January 1, 2011.<sup>1</sup>

It is therefore the order of this board that the subject properties’ true and taxable values, as of January 1, 2008, January 1, 2009 and January 1, 2010, were as follows:

PARCEL NUMBER	TRUE VALUE	TAXABLE VALUE
040-001519	\$1,890,000	\$661,500
PARCEL NUMBER	TRUE VALUE	TAXABLE VALUE
010-021378	\$1,100,000	\$385,000

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

<sup>1</sup> It should be noted that the BOR conducted its hearing on November 9, 2011 and issued its decisions on January 6, 2012. However, as the complaints attached to the BOE’s briefs demonstrate, the property owner filed complaints challenging subject properties’ values for tax year 2011 on March 26, 2012. Therefore, it is clear that the BOR inappropriately adjusted the subject properties’ values 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.



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A.J. Groeber, Board Secretary