ORIGINAL

IN THE SUPREME COURT OF OHIO

Board of Education of the Columbus City Schools,	:	Case No. 14-0926
Appellant,	:	
v.	:	
Franklin County Board of Revision, Franklin County Auditor, and Trustees Westgate Lodge F & AM 623.	:	Appeal from the Ohio Board of Tax Appeals - Case No. 2011-556
Appellees.	:	

NOTICE OF APPEAL OF THE BOARD OF EDUCATION OF THE COLUMBUS CITY SCHOOLS

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FILED
JUN 05 2014
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
JUN 05 2014
BOARD OF TAX APPEALS
COLUMBUS, OHIO

HAND DELIVERED

IN THE SUPREME COURT OF OHIO

Board of Education of the Columbus City Schools,	:	
	:	Case No. _____
Appellant,		
	:	
v.		
	:	Appeal from the Ohio Board of Tax Appeals - Case No. 2011-556
Franklin County Board of Revision, Franklin County Auditor, and Trustees Westgate Lodge F & AM 623.	:	
	:	
Appellees.		

NOTICE OF APPEAL OF THE BOARD OF EDUCATION OF THE COLUMBUS CITY SCHOOLS

Now comes the Appellant, the Board of Education of 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 Columbus City Schools v. Franklin County Board of Revision, Franklin County Auditor, and Trustees Westgate Lodge F & AM 623.*, BTA Case No. 2011-556, rendered on May 9, 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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(614) 228-5822

Attorneys for Appellant
Board of Education of the Columbus City School District

EXHIBIT A - STATEMENT OF ERRORS

(1) The Ohio Board of Tax Appeals (BTA) erred in failing to reinstate the Auditor's original value after it rejected all evidence presented by the original complainant as "insufficient to support the claimed adjustment to value."

(2) The BTA erred in failing to independently determine the value of the subject property;

(3) The BTA erred by failing to recognize that as the Appellant before it, the Board of Education could meet its burden of going forward with evidence by cross-examination of the original complainant's witnesses and closing statements demonstrating that the decision of the board of revision was not supported by the record;

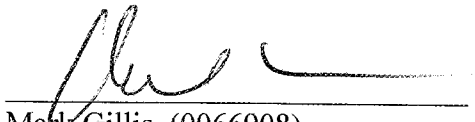
(4) The BTA erred by giving the board of revision's decision a presumption of validity.

(5) The BTA erred by giving the board of revision's decision any deference.

(6) The BTA erred in retaining an otherwise unsupported reduction in value by the Franklin County Board of Revision after holding that the original complainant failed to sustain 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 5 th day of June, 2014.

Trustees Westgate Lodge F & AM 623
2925 W. Broad St.
Columbus, Ohio 43204

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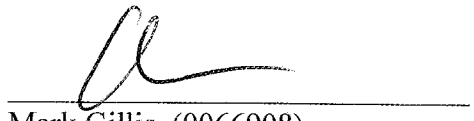


Mark Gillis (0066908)
Attorney for Appellant

IN THE SUPREME COURT OF OHIO

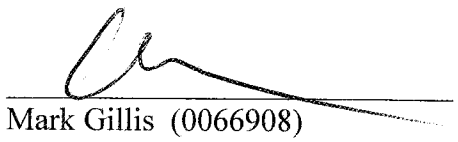
Board of Education of the Columbus City Schools,	:	
Appellant,	:	Case No. _____
v.	:	
Franklin County Board of Revision, Franklin County Auditor, and Trustees Westgate Lodge F & AM 623.	:	Appeal from the Ohio Board of Tax Appeals - Case No. 2011-556
Appellees.	:	

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 Columbus City Schools v. Franklin County Board of Revision, Franklin County Auditor, and Trustees Westgate Lodge F & AM 623.*, BTA Case No. 2011-556, rendered on May 9, 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

IO BOARD OF TAX APPEAI

Board of Education of the Columbus City Schools,	)	CASE NO(S). 2011-556
Appellant(s),	)	(REAL PROPERTY TAX)
vs.	)	DECISION AND ORDER
Franklin County Board of Revision, et al.,	)	
Appellees.	)	

APPEARANCES:

For the Appellant(s) - Rich and Gillis Law Group, LLC
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Assistant Prosecuting Attorney
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Columbus, OH 43215

For the Appellee Property Owner - Arthur Groves, pro se
112 King Way
West Jefferson, Ohio 43162

Entered MAY 09 2014

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

Appellant(s) appeals a decision of the board of revision ("BOR") which determined the value of the subject real property, parcel number(s) 010-067397-00. This matter is now considered upon the notice of appeal, the transcript certified by the BOR pursuant to R.C. 5717.01, and the record of hearing before this board. The subject's total true value was initially assessed at $420,000. A decrease complaint was filed with the BOR seeking a reduction in value to $250,000. A counter complaint was filed on behalf of the Board of Education of the Columbus City Schools requesting the assessed value be maintained. The BOR issued a decision and reduced the total true value to $350,000, which led to the present appeal(s).

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 availabl nd thus an appraisal becomes necess[1] *State ex rel. Park Invest. Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. In this instance, there exists no evidence the subject property "recently" transferred through a qualifying sale, nor did appellant provide a competent appraisal of the subject property, attested to by a qualified expert, for the tax lien date in issue.[2] Here, the appellee property owner relied upon a realtor's opinion of value in support of the reduction sought, however, as noted in The Appraisal of Real Estate (13th Ed. 2008), an accepted treatise, while a variety of individuals and professionals may be familiar with valuation concepts, they are not appraisers, specifically:

> "[r]eal estate salespeople are licensed to sell real estate. They have training in their field but may or may not have extensive appraisal experience. They are generally familiar with properties in a given locale and have access to market information. They frequently use sales and other market information for property comparison purposes in pricing. Some may develop appraisal expertise. As a group, real estate salespeople evaluate specific properties, but they typically do not consider all the factors that professional appraisers do." Id. at 8-9.

Accordingly, based upon our review of the record, we find the bases cited insufficient to support the claimed adjustment to value. It is therefore the order of this board that the true and taxable values of the subject property, as of January 1, 2009, were as follows:

TRUE VALUE	TAXABLE VALUE
$350,000	$122,500

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

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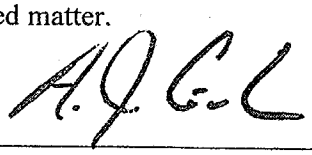
[1] Justice Pfeifer's concurrence in *LTC Properties, Inc. v. Licking Cty. Bd. of Revision*, 133 Ohio St.3d 111, 2012-Ohio-3930, echoes the court's prior observations: "All property owners and their counsel know that they have a heavy burden to overcome when challenging a valuation. *** [I]f a[n appellant] wants to challenge a valuation, it should send a certified appraiser or other qualified expert, not an employee, however experienced. It is well known that the only nonexperts competent to testify as to valuation are owners. Finally, the best way to challenge a valuation is with a proper appraisal, which was not submitted in this case." Id. at ¶28. The court has also held that "[w]hile an owner may testify as to the value of his or her property, there is no requirement that the finder of fact accept that value as the true value of the property." *WJJK Investments, Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29, 32. Rather, this board is charged with the responsibility of determining value based upon evidence properly contained within the record which must be found to be both competent and probative. *Strongsville Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1997), 77 Ohio St.3d 402, 405; *Cardinal Fed. S. & L. Assn. v. Bd. of Revision* (1975), 44 Ohio St.2d 13, paragraph two of the syllabus.

[2] When boards of revision and this board are presented with nothing more than lists of raw sales data, assessed values of other properties, unauthenticated "opinions of value" developed using unconfirmed Internet/software packages, appraisals submitted without expert testimony which are undertaken for purposes other than tax valuation often concluding to values for dates other than the tax lien date in issue, a trier of fact is left to speculate how common differences, e.g., location, size, quality of construction of improvements, nature of amenities, date of sale as opposed to tax lien date, etc., may affect a valuation determination. See, generally, *Freshwater v. Belmont Cty. Bd. of Revision* (1997), 80 Ohio St.3d 26; *WJJK Investments, Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29; The Appraisal of Real Estate (13th Ed. 2008); *Copp v. Franklin Cty. Bd. of Revision* (Sept. 8, 2009), BTA No. 2007-Z-692, unreported.

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.J. Groeber, Board Secretary