

IN THE SUPREME COURT OF OHIO

CITY OF CINCINNATI,

Appellee,

v.

JOSEPH W. TESTA,  
TAX COMMISSIONER OF OHIO,

Appellant.

: Case No. 2014-0531  
:  
: On appeal from the  
: Ohio Board of Tax Appeals  
:  
: BTA Case Nos. 2011-K-143 through -148  
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APPELLEE'S OPPOSITION TO MOTION TO SCHEDULE COMMON DATE FOR  
ORAL ARGUMENT

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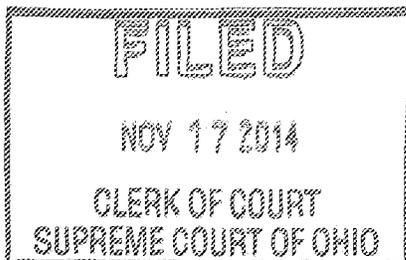
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Appellee City of Cincinnati (“City”) respectfully opposes the Motion to Schedule Common Date for Oral Argument (“Motion”) filed by Joseph W. Testa, Tax Commissioner of Ohio (“Tax Commissioner”). The Tax Commissioner’s Motion seeks to schedule an oral argument on the same day as Cuyahoga County’s appeal taken from the Ohio Board of Tax Appeals (“BTA”) captioned *Cuyahoga County v. Testa*, No. 2014-0852.

There is good reason that the instant appeal and Cuyahoga County’s appeal should be heard separately. The BTA found the facts in the City’s case and Cuyahoga County’s case sufficiently distinguishable to hold that the City’s property is entitled to exemption under R.C. 5709.08 and that Cuyahoga County’s property is not entitled to exemption under R.C. 5709.08. The Court has no express rule permitting the consolidation of factually-distinguishable appeals from the BTA, and the City fears that the Tax Commissioner’s attempt to conflate these factually-distinguishable appeals will prejudice the City provided that the standard of review favors the City but does not favor Cuyahoga County.

The City’s concern is justifiable given the timing of the Tax Commissioner’s Motion. Though the Tax Commissioner was aware of Cuyahoga County’s appeal near the outset of this appeal—he is a party to both appeals which were docketed within six weeks of each other—his Motion comes after the instant appeal has been fully briefed and the City is left without a reasonable opportunity to distinguish Cuyahoga County’s appeal. Thus, in fairness to all parties, the City believes that the Tax Commissioner would be best served asking the Court to hold Cuyahoga County’s appeal pending the outcome of this appeal. The Court’s decision herein may resolve some—or all—of the issues raised in Cuyahoga County’s appeal.

For these reasons, the City respectfully asks that the Tax Commissioner’s Motion be denied.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing has been sent this 17th day of November 2014 by ordinary U.S. Mail to:

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