

IN THE SUPREME COURT OF OHIO

TALAWANDA CITY SCHOOL : CASE NO. 2014-1798
DISTRICT BOARD OF EDUCATION :
Appellant, :
vs. : ON APPEAL FROM THE OHIO
BOARD OF TAX APPEALS
OHIO DEPARTMENT OF :
TAXATION, ET AL. : BTA CASE NO. 2012-A-1224
Appellees :

APPELLANT'S MOTION FOR THE FULL COURT TO HEAR ORAL ARGUMENT

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Joseph W. Testa, Tax Commissioner of
Ohio

Comes now, Appellant, the Talawanda City School District Board of Education, by and through counsel, and pursuant to S.Ct. Prac. R. 17.07, requests that the Supreme Court of Ohio hear oral argument in this matter.

The full Court should hear oral argument in this matter because this Court has never had the opportunity to address real property tax exemptions available to public boards of education under R.C. 3313.44. The statute very simply provides that “[r]eal or personal property owned by or leased to any board of education for a lease term of at least fifty years shall be exempt from taxation.”

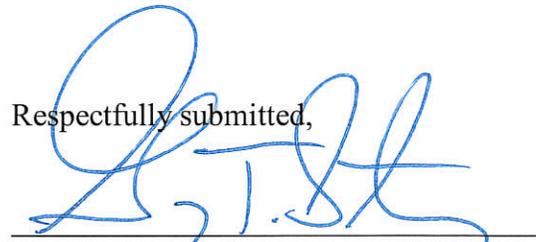
Despite the fact that R.C. 3313.44 requires nothing other than ownership by a board of education for a real property tax exemption to apply, the Tax Commissioner has routinely denied applications filed by public boards of education that seek exemption for property that is not being used strictly for a school purpose. The Board of Education contends that the Tax Commissioner has consistently relied upon case law from the Board of Tax Appeals that is no longer valid. In fact, this case law has not been valid since the 1931 amendment to Section 2 of Article XII of the Ohio Constitution and this Court’s 1965 seminal decision interpreting that amendment in *Denison University v. Board of Tax Appeals*, 2 Ohio St.2d 17, 205 N.E.2d 896 (1965).

If the Board of Education is correct, the Tax Commissioner has denied many public boards of education of otherwise valid real property tax exemptions. This Court has never before addressed whether R.C. 3313.44 and the 1931 amendment to Section 2 of Article XII of the Ohio Constitution permit a real property tax exemption for board of education property regardless of the use of the property.

This case is particularly ripe for oral argument before the entire Court because it involves the 1931 amendment to Section 2 of Article XII of the Ohio Constitution as well as several other Ohio Supreme Court decisions that were all issued more than 35 years ago. Additionally, although the Board of Education believes the Tax Commissioner misconstrues this Court's holding in its 1948 decision in *Bd. of Ed. of City Sch. Dist. of Cincinnati v. Bd. of Tax Appeals*, 149 Ohio St. 564, 80 N.E.2d 156 (1948), this Court may wish to overrule, reconsider, or clarify its 1948 decision in light of its 1965 decision in *Denison*, which was the first time this Court acknowledged that the General Assembly had the authority since 1931 to grant any tax exemption it pleased, regardless of the use of the property.

For these reasons, the Board of Education respectfully requests that this Court hear oral argument in this matter.

Respectfully submitted,

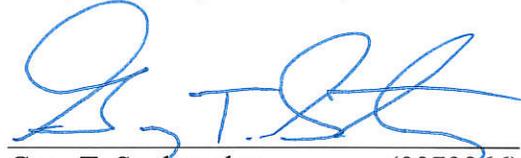


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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served by certified mail to: **David D. Ebersole**, Counsel for Appellee, Joseph W. Testa, Tax Commissioner of Ohio, 30 East Broad Street, 25th Floor, Columbus, OH 43215 and **Karrie M. Kalail and Paul J. Deegan**, Counsel for Amici Curiae, Ohio School Boards Association and Ohio Association of School Business Officials, Smith, Peters & Kalail, Co., L.P.A., 3 Summit Park Drive, Suite 400, Cleveland, OH 44131 on this the 8th day of April, 2015.



Gary T. Stedronsky

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