

IN THE SUPREME COURT OF OHIO

Geneva Area Recreational, Educational and Athletic Trust)	Case No. 2014-1778
)	
Appellant,)	Appeal from the Ohio Board of Tax Appeals
)	
v.)	BTA Case No. 2012-A-841
)	
Joseph W. Testa, Tax Commissioner)	
)	
Appellee.)	

**APPELLANT GENEVA AREA RECREATIONAL, EDUCATIONAL AND ATHLETIC
TRUST'S MOTION FOR ORAL ARGUMENT BEFORE THE FULL COURT**

Ryan M. Ellis (0078128)
COUNSEL OF RECORD
Stuart W. Cordell (0014777)
Warren and Young PLL
134 West 46th Street
P.O. Box 2300
Ashtabula, OH 44005-2300
Telephone: (440) 997-6175
Facsimile: (440) 992-9114
rellis@warrenyoung.com
scordell@warrenyoung.com

Mike DeWine (0009181)
Ohio Attorney General
David D. Ebersole (0087896)
Assistant Attorney General
30 East Broad Street, 25th Floor
Columbus, OH 43215-3428
Telephone: (614) 466-5967
Facsimile: (614) 636-8331
David.Ebersole@OhioAttorneyGeneral.gov

*Attorneys for Appellee, Joseph W. Testa,
Tax Commissioner of Ohio*

Mary Jane Trapp (0005315)
Thrasher, Dinsmore & Dolan LPA
1400 West Sixth Street, Suite 400
Cleveland, OH 44113
Telephone: (216) 255-5431
Facsimile: (216) 255-5450
mjtrapp@tddl.com

*Attorneys for Appellant Geneva Area
Recreational, Educational and Athletic
Trust*

MOTION

Pursuant to S.Ct.Prac.R. 17.07(A), Appellant, Geneva Area Recreational and Athletic Trust, operating as SPIRE Institute (“SPIRE”), hereby moves for oral argument before the full Supreme Court.

This case involves the Board of Tax Appeals’ (“BTA”) erroneous interpretations of R.C. 5709.12 and 5709.121 regarding real property belonging to a charitable institution. Oral argument before the full Court is warranted in this case because this appeal presents issues of public and great general interest relating to the proper interpretations of R.C. 5709.12 and R.C. 5709.121.

Appellant’s Merit Brief presents five propositions of law relating to the proper legal standards for the BTA to apply in deciding tax exemption applications under R.C. 5709.12 and R.C. 5709.121. Specifically, the legal issues presented in this case include the following:

(1) The circumstances under which real property “belongs to” a long-term lessee for purposes of R.C. 5709.12 and R.C. 5709.121. The BTA failed to distinguish or even acknowledge this Court’s binding legal precedent grounded in fundamental principles of real property law.

(2) The circumstances under which an institution qualifies as a “charitable institution” under R.C. 5709.121. The BTA refused to consider whether an Ohio nonprofit corporation recognized as a public charity exempt from federal income taxation that engages in charitable activities under binding legal precedent was a “charitable institution” under Ohio law.

(3) The proper interpretation of “exclusive charitable use” under R.C. 5709.12(B). The BTA ignored this court’s binding precedent and its own applicable decisions for the purpose of denying tax exemption.

(4) Whether a charitable tax exemption may be denied under R.C. 5709.12(B) based on the percentage of “quid pro quo transactions.” The BTA engrafted a new legal test for charitable use that does not appear in the applicable statutes or this court’s decisions.

(5) The types of activities that satisfy this court’s “prospective use” standard for a charitable institution’s unimproved property. The BTA misapplied this Court’s “prospective use” standard for unimproved real property owned by a charitable organization.

All of the above issues present important questions of law that will have a significant and impact upon other charitable institutions throughout the State of Ohio. Accordingly, given the importance of the legal issues presented in this case to all charitable institutions across the State of Ohio, SPIRE respectfully requests that the court schedule oral argument before the full Supreme Court in this case.

CONCLUSION

For these reasons, therefore, SPIRE respectfully requests that the court issue an Order under S.Ct.Prac.R. 17.07 to schedule oral argument in this case before the full Supreme Court.

Respectfully submitted,

/s Ryan M. Ellis

Ryan M. Ellis (0078128)
COUNSEL OF RECORD
Stuart W. Cordell (0014777)
Warren and Young PLL
134 West 46th Street
P.O. Box 2300
Ashtabula, OH 44005-2300
Telephone: (440) 997-6175
Facsimile: (440) 992-9114
rellis@warrenyoung.com
scordell@warrenyoung.com

Mary Jane Trapp (0005315)
Thrasher, Dinsmore & Dolan LPA
1400 West Sixth Street, Suite 400
Cleveland, OH 44113
Telephone: (216) 255-5431
Facsimile: (216) 255-5450
mjtrapp@tddl.com

*Attorneys for Appellant Geneva Area
Recreational, Educational and Athletic
Trust*

CERTIFICATE OF SERVICE

I hereby certify that a copy of Appellant's Motion for Oral Argument Before the Full Court was served via regular first-class mail, postage prepaid, on April 30, 2015, to Mike DeWine, Ohio Attorney General, David D. Ebersole, Assistant Attorney General, 30 East Broad Street, 25th Floor, Columbus, OH 43215-3428, Attorneys for Appellee Joseph W. Testa, Tax Commissioner of Ohio.

/s Ryan M. Ellis
Ryan M. Ellis