

IN THE SUPREME COURT OF OHIO

**NORTHEAST OHIO REGIONAL
SEWER DISTRICT,**

Appellant,

vs.

BATH TOWNSHIP, OHIO, *et al.*,

Appellees.

CASE NO. 2013-1770

**Appeal from Court of Appeals for the
Eighth Appellate District Case No. CA-12-
098728 (Consolidated with Case Nos. CA-
12-098729 & CA-12-098739)**

**Cuyahoga County Court of Common Pleas
Case No. CV-10-714945**

MOTION FOR RECONSIDERATION OF APPELLEES

**THE OHIO COUNCIL OF RETAIL MERCHANTS; THE GREATER CLEVELAND
ASSOCIATION OF BUILDING OWNERS AND MANAGERS; THE CLEVELAND
AUTOMOBILE DEALERS ASSOCIATION; CADA PROPERTIES, LLC; THE
NORTHERN OHIO CHAPTER OF NAIOP, THE ASSOCIATION FOR
COMMERCIAL REAL ESTATE; THE NORTHEAST OHIO APARTMENT
ASSOCIATION; SNOWVILLE SERVICE ASSOCIATES LLC; BOARDWALK
PARTNERS, LLC; CREEKVIEW COMMONS, LLC; FARGO WAREHOUSE LLC;
HIGHLANDS BUSINESS PARK, LLC; JES DEVELOPMENT LTD.; LAKEPOINT
OFFICE PARK, LLC; LANDERBROOK POINT, LLC; NEWPORT SQUARE, LTD.;
PARK EAST OFFICE PARK LLC; AND WGG DEVELOPMENT, LTD.**

Mark I. Wallach (0010949)
(COUNSEL OF RECORD)
Thacker Martinsek LPA
2330 One Cleveland Center
1375 E. 9th Street
Cleveland, Ohio 44114
Tel: 216-456-3848
Fax: 216-456-3850
Email: mwallach@tmlpa.com

Sheldon Berns (0000140)
(COUNSEL OF RECORD)
Paul Greenberger (0030736)
Benjamin J. Ockner (0034404)
Jordan Berns (0047404)
Timothy J. Duff (0046764)
Gary F. Werner (0070591)
Berns, Ockner & Greenberger, LLC
3733 Park East Drive, Suite 200
Beachwood, Ohio 44122
Tel: 216-831-8838/Fax: 216-464-4489
sberns@bernscockner.com
pgreenberger@bernssockner.com
bockner@bernssockner.com
jberns@bernssockner.com
tduff@bernssockner.com
gwerner@bernssockner.com

James F. Lang (0059668)
Matthew J. Kucharson (0082388)
Molly A. Drake (0083556)
Calfee, Halter & Griswold LLP
1405 East Sixth Street
Cleveland, Ohio 44114
Tel: 216-622-8200
Fax: 216-241-0816
Email: jlang@calfee.com
mkucharson@calfee.com
mdrake@calfee.com

Marlene Sundheimer (0007150)
Director of Law
Northeast Ohio Regional Sewer District
3900 Euclid Avenue
Cleveland, Ohio 44115
Tel: 216-881-6600
Email: sundheimer@neorsd.org

*Attorneys for Appellant, Northeast Ohio
Regional Sewer District*

Kenneth A. Kraus (0000812)
Law Director, City of Strongsville
Daniel J. Kolick (0002631)
Assistant Law Director
City of Strongsville
16099 Foltz Parkway
Strongsville, Ohio 44149
strongsville.law@strongsville.org
dkolick@kolick-kondzer.com

Attorneys for City of Strongsville

*Attorneys for The Ohio Council of Retail
Merchants; The Greater Cleveland
Association of Building Owners and
Managers; The Cleveland Automobile
Dealers Association; CADA Properties, LLC;
The Northern Ohio Chapter of NAIOP, The
Association for Commercial Real Estate; The
Northeast Ohio Apartment Association;
Snowville Service Associates LLC; Boardwalk
Partners, LLC; Creekview Commons, LLC;
Fargo Warehouse LLC; Highlands Business
Park, LLC; JES Development Ltd.; Lakepoint
Office Park, LLC; Landerbrook Point, LLC;
Newport Square, Ltd.; Park East Office Park
LLC; and WGG Development, Ltd.*

John B. Nalbandian (0073033)
(COUNSEL OF RECORD)
W. Stuart Dornette (0002955)
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202
Tel: 513-381-2838
Fax: 513-381-0205
Email: nalbandian@taftlaw.com
dornette@taftlaw.com

Stephen M. O'Bryan (0009512)
Gregory J. O'Brien (0063441)
Michael J. Zbiegien, Jr. (0078352)
Taft Stettinius & Hollister LLP
200 Public Square, Suite 3500
Cleveland, Ohio 44114
Tel: 216-241-2838
Fax: 216-241-3707
Email: sobryan@taftlaw.com
gobrien@taftlaw.com
mzbiegien@taftlaw.com

*Attorneys for Appellees City of Beachwood,
City of Bedford Heights, Village of
Glenwillow, City of Independence, City of
Lyndhurst, Village of Oakwood, and City of
Olmsted Falls*

David J. Matty (0012335)
Shana A. Samson (0072871)
Justin Whelan (0088085)
Matty, Henrikson & Greve
55 Public Square, Suite 1775
Cleveland, Ohio 44113
Tel: 216-621-6570
Fax: 216-621-1127
Email: dmatty@rmmglaw.com
ssamson@rmmglaw.com
jwhelan@rmmglaw.com

Attorneys for Appellee City of Brecksville

MOTION

Appellee intervening property owners,¹ under S.Ct.Prac.R. 18.02, ask this Court to modify its September 15, 2015 opinion and judgment entry to remand the cause to the court of appeals to consider dispositive issues that the court of appeals had deemed moot, based on its determination of other issues that this Court has now reversed. The issues not considered by the court of appeals are no longer moot, and remand is required to enable the court of appeals to consider them.

MEMORANDUM IN SUPPORT

Appellant Northeast Ohio Regional Sewer District (“Sewer District”) commenced this action by seeking a declaratory judgment concerning the validity of its regional stormwater-management program (the “Program”), including a proposed stormwater fee. The intervening property owners and a number of the Sewer District’s member communities (collectively “Appellees”) counterclaimed, seeking a permanent injunction against the Sewer District to prevent it from, among other things, collecting the fee. After trial, the trial court denied Appellees’ claims for a permanent injunction and declared, among other things, that the proposed stormwater fee was constitutional and was not an unauthorized tax.

Appellees appealed to the Eighth District Court of Appeals, and, in a common brief, collectively presented the following six assignments of error:

- I. The trial court erred in denying the Cities' and Property Owners' Counterclaims, to the extent that they sought permanently to enjoin the

¹ The intervening property owners are The Ohio Council of Retail Merchants; The Greater Cleveland Association of Building Owners and Managers; The Cleveland Automobile Dealers Association; Cada Properties, LLC; The Northern Ohio Chapter Of NAIOP, The Association for Commercial Real Estate; The Northeast Ohio Apartment Association; Snowville Service Associates LLC; Boardwalk Partners, LLC; Creekview Commons, LLC; Fargo Warehouse LLC; Highlands Business Park, LLC; Jes Development Ltd.; Lakepoint Office Park, LLC; Landerbrook Point, LLC; Newport Square, Ltd.; Park East Office Park LLC; and WGG Development, Ltd.

Sewer District from imposing and collecting its unlawful "Stormwater Fee."

- II. The trial court erred in denying the Cities' and Property Owners' Counterclaims, to the extent that it sought permanently to enjoin the Sewer District from undertaking a comprehensive Stormwater Management Program (i.e., its Title V) for which it has no authority under R.C. Chapter 6119.
- III. The trial court erred in denying the Cities' and the Property Owners' Counterclaims to the extent that they sought permanently to enjoin the Sewer District from undertaking an SMP² not authorized by its Charter.
- IV. The trial court erred in denying the Cities' and Property Owners' Counterclaims, to the extent that they sought permanently to enjoin the Sewer District from undertaking its SMP, because that SMP, as applied, violates numerous Ohio and Federal Constitutional provisions.
- V. The trial court erred in denying the Cities' and Property Owners' motion to dismiss because the trial court lacked subject matter jurisdiction due to Plaintiffs failure to join all necessary parties in the action.
- VI. The trial court erred when it oversaw amendments to Title V after holding a trial and after its February 2012 Opinion declaring the rights of the parties.

Northeast Ohio Reg'l Sewer Dist. v. Bath Twp., 8th Dist. Cuyahoga No. 98728, 2013-Ohio-4186, 999 N.E.2d 181, ¶ 35.

The court of appeals sustained the first, second, and third assignments of error and overruled the fifth and sixth assignments of error.³ In so doing, however, the court of appeals deemed it unnecessary to address the challenge set forth in Appellees' first assignment of error, i.e., that the stormwater fee was an unlawful tax:

With regard to the challenge to the stormwater fee being an unlawful tax, we are cognizant that other jurisdictions have found stormwater charges are fees. We need not decide whether this is the case under Ohio law. Rather, our focus

² "Stormwater management program."

³ The court of appeals inadvertently referred to the sixth assignment of error as the "seventh" assignment of error in Paragraph 77 of its opinion.

is on whether the Sewer District possesses the authority under R.C. Chapter 6119 to implement its RSM Program and the associated stormwater fee.

Id. at ¶ 48. The court of appeals also found it unnecessary to address the fourth assignment of error, concluding that its sustaining of the first, second, and third assignments of error rendered the fourth assignment moot:

Having already sustained the first, second, and third assignments of error, we need not address the constitutional challenges raised by appellants. Accordingly, we find the fourth assignment of error is moot.

Id. at ¶ 69.

These issues were also not considered by this Court.⁴ The Court, in fact, specifically declined review of the Sewer District's third proposition of law:

Stormwater management programs, paid for through charges for stormwater management services, do not violate the Ohio or United States Constitutions. Further, such charges, when based upon the amount of impervious surface on a property, do not constitute an illegal tax.

Notwithstanding, the Court concluded its recent decision by simply reversing the court of appeals' judgment, without expressly remanding the matter to the court of appeals to consider these remaining, dispositive issues. *Northeast Ohio Reg'l Sewer Dist. v. Bath Twp.*, Slip Op. No. 2015-Ohio-3705, ¶ 22.

It is well settled that when a decision by this Court does not determine dispositive issues that were raised in the court of appeals but not considered by that court, this Court remands the cause for consideration of the issues by the court of appeals. See *State v. Clark*, Slip. Op. 2015-Ohio-3580 (“On review of the order of the Supreme Court of the United States, we remand this

⁴ The issues that have not yet been addressed are substantive and include dispositive constitutional claims. They also include assertions that the Sewer District's so-called fee is in fact a tax on real property that cannot be levied without being voted on and approved by the electors in the Sewer District, and, in no event could be levied against places of worship, health-care facilities, and other charitable institutions that have been given an exemption from payment of such taxes by the Ohio General Assembly.

cause to the court of appeals to consider defendant-appellee Darius Clark's assignments of error, which the court of appeals had determined to be moot.”); *Hayward v. Summa Health System/Akron City Hosp.*, 139 Ohio St.3d 238, 2014-Ohio-1913, 11 N.E.3d 243, ¶ 3 (“We reverse the judgment of the court of appeals on this issue and remand the cause for the court of appeals to consider the assignments of error it previously determined were moot.”); *Lawrence v. City of Youngstown*, 133 Ohio St.3d 174, 2012-Ohio-4247, 977 N.E.2d 582, ¶ 30 (“We therefore remand the cause to the court of appeals to address those assignments of error determined to be moot and not addressed.”); *State v. Morris*, 132 Ohio St.3d 337, 2012-Ohio-2407, 972 N.E.2d 528, ¶ 23 (“This matter is remanded to the appellate court with instructions to apply an abuse-of-discretion standard and, if appropriate, for consideration of defendant's remaining assigned errors, which the appellate court initially determined to be moot.”); *Pickaway Cty. Skilled Gaming, L.L.C. v. Cordray*, 127 Ohio St.3d 104, 2010-Ohio-4908, 936 N.E.2d 944, ¶ 49 (“We hold that the prize-value limit set forth in R.C. 2915.01(AAA)(1) is rationally related to legitimate government interests and does not violate the Equal Protection Clauses of the United States and Ohio Constitutions. We therefore reverse the judgment of the Tenth District Court of Appeals to the extent that it held otherwise. Because we hold that R.C. 2915.01(AAA)(1) does not violate the Equal Protection Clauses, PCSG and Cline's void-for-vagueness argument is no longer moot. Since the court of appeals did not reach the merits of PCSG and Cline's argument that R.C. 2915.01(AAA)(1) is void for vagueness, we remand the case to the Tenth District for consideration of PCSG and Cline's first assignment of error.”); *Allstate Ins. Co. v. Cleveland Elec. Illum. Co.*, 119 Ohio St.3d 301, 2008-Ohio-3917, 893 N.E.2d 824, ¶ 16 (“Because the court of appeals' erroneous disposition of the issue before us led it to hold that CEI's remaining assignments of error were moot, we remand to the court of appeals for consideration of those issues.”); *State v. Jones*, 116 Ohio St.3d 211, 2007-Ohio-6093,

877 N.E.2d 677, ¶ 57 (“Because the Seventh District Court of Appeals did not address Jones's second assignment of error on his motion to vacate his guilty plea, we remand for consideration of that assignment of error.”); *Whitaker v. M.T. Auto., Inc.*, 111 Ohio St.3d 177, 2006-Ohio-5481, 855 N.E.2d 825, ¶ 33 (“Because the court of appeals did not address whether the sufficiency and weight of the evidence support an award of noneconomic damages, we remand the case to the Ninth District Court of Appeals for further proceedings.”); *White v. Conrad*, 102 Ohio St.3d 125, 2004-Ohio-2148, 807 N.E.2d 327, ¶ 16 (“The substantive issue of whether an annulment of a remarriage puts a deceased employee's surviving spouse back in the position where she is entitled to receive death benefits was left unanswered by the court below, when the court found the issue moot. We remand this cause to the court of appeals for consideration of that issue.”); *Hooten v. Safe Auto Ins. Co.*, 100 Ohio St.3d 8, 2003-Ohio-4829, 795 N.E.3d 648, ¶ 43 (“Therefore, Hooten's argument to the court of appeals that there is a genuine issue of fact making summary judgment inappropriate remains. The court of appeals did not address that question, and we remand the matter to that court for its consideration.”); *Texler v. D.O. Summers Cleaners & Shirt Laundry Co.*, 81 Ohio St.3d 677, 693 N.E.2d 271, 681 (1990) (“We therefore reverse the judgment of the court of appeals on the issue addressed in this opinion. We remand this cause to the court of appeals for that court to review the remaining assignments of error raised by both parties below, which were found to be moot and not addressed.”); *State v. Ferguson*, 57 Ohio St.3d 176, 177, 566 N.E.2d 1230 (1991) (“Since the appellate court reversed the appellee's conviction on the basis of his first assignment of error, that R.C. 955.11(A)(4)(a)(iii) is unconstitutionally void for vagueness, the court did not address appellee's subsequent assignments of error. Accordingly, we reverse the judgment of the appellate court overturning appellee's conviction and remand the cause to that court for consideration of the appellee's second, third, and fourth assignments of error.”);

Himebaugh v. City of Canton, 145 Ohio St. 237, 243, 61 N.E.2d 483 (1945) (“As previously observed, the Court of Appeals did not consider the second ground of the demurrer as to whether the facts stated in the petition are sufficient to constitute a cause of action. Hence, the case is remanded to the Court of Appeals for the purpose of consideration and decision of this further question.”).

It is clear from this case law that remand to the court of appeals is required so that court may address the substantive issues that it has not yet addressed and which this Court did not accept for review. Appellee intervening property owners respectfully request the Court to modify its judgment entry and opinion accordingly.

Respectfully submitted,

/s/Sheldon Berns

Sheldon Berns (0000140)
(COUNSEL OF RECORD)
Paul Greenberger (0030736)
Benjamin J. Ockner (0034404)
Jordan Berns (0047404)
Timothy J. Duff (0046764)
Gary F. Werner (0070591)
Berns, Ockner & Greenberger, LLC
3733 Park East Drive, Suite 200
Beachwood, Ohio 44122
Tel: 216-831-8838
Fax: 216-464-4489
sberns@bernscockner.com
pgreenberger@bernscockner.com
bockner@bernscockner.com
jberns@bernscockner.com
tduff@bernscockner.com
gwerner@bernscockner.com

Attorneys for Appellees The Ohio Council of Retail Merchants; The Greater Cleveland Association of Building Owners and Managers; The Cleveland Automobile Dealers Association; CADA Properties,

LLC; The Northern Ohio Chapter of NAIOP, The Association for Commercial Real Estate; The Northeast Ohio Apartment Association; Snowville Service Associates LLC; Boardwalk Partners, LLC; Creekview Commons, LLC; Fargo Warehouse LLC; Highlands Business Park, LLC; JES Development Ltd.; Lakepoint Office Park, LLC; Landerbrook Point, LLC; Newport Square, Ltd.; Park East Office Park LLC; and WGG Development, Ltd.

CERTIFICATE OF SERVICE

A copy of this **Motion for Reconsideration of Appellees The Ohio Council of Retail Merchants; The Greater Cleveland Association of Building Owners and Managers; The Cleveland Automobile Dealers Association; CADA Properties, LLC; The Northern Ohio Chapter of NAIOP, The Association for Commercial Real Estate; The Northeast Ohio Apartment Association; Snowville Service Associates LLC; Boardwalk Partners, LLC; Creekview Commons, LLC; Fargo Warehouse LLC; Highlands Business Park, LLC; JES Development Ltd.; Lakepoint Office Park, LLC; Landerbrook Point, LLC; Newport Square, Ltd.; Park East Office Park LLC; and WGG Development, Ltd.** has been served this 24th day of September 2015, by e-mail and Regular U.S. mail, postage prepaid, upon:

Mark I. Wallach, Esq.
(COUNSEL OF RECORD)
Thacker Martinsek LPA
2330 One Cleveland Center
1375 E. 9th Street
Cleveland, Ohio 44114
mwallach@tmlpa.com
*Attorneys for Appellant, Northeast Ohio
Regional Sewer District*

John B. Nalbandian, Esq.
(COUNSEL OF RECORD)
W. Stuart Dornette, Esq.
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202
nalbandian@taftlaw.com
dornette@taftlaw.com
*Attorneys for Appellees City of Beachwood,
City of Bedford Heights, Village of
Glenwillow, City of Independence, City of
Lyndhurst, Village of Oakwood, and City of
Olmsted Falls*

James F. Lang, Esq.
Matthew J. Kucharson, Esq.
Molly A. Drake, Esq.
Calfee, Halter & Griswold LLP
1405 East Sixth Street
Cleveland, Ohio 44114
jlang@calfee.com
mkucharson@calfee.com
mdrake@calfee.com
*Attorneys for Appellant, Northeast Ohio
Regional Sewer District*

Stephen M. O’Bryan, Esq.
Gregory J. O’Brien, Esq.
Michael J. Zbiegien, Jr. , Esq.
Taft Stettinius & Hollister LLP
200 Public Square, Suite 3500
Cleveland, Ohio 44114
sobryan@taftlaw.com
gobrien@taftlaw.com
mzbiegien@taftlaw.com
*Attorneys for Appellees City of Beachwood,
City of Bedford Heights, Village of
Glenwillow, City of Independence, City of
Lyndhurst, Village of Oakwood, and City of
Olmsted Falls*

Marlene Sundheimer, Esq.
Director of Law
Northeast Ohio Regional Sewer District
3900 Euclid Avenue
Cleveland, Ohio 44115
sundheimer@neorsd.org
*Attorneys for Appellant, Northeast Ohio
Regional Sewer District*

David J. Matty, Esq.
Shana A. Samson, Esq.
Justin Whelan, Esq.
Matty, Henrikson & Greve
55 Public Square, Suite 1775
Cleveland, Ohio 44113
dmatty@rmmglaw.com
ssamson@rmmglaw.com
jwhelan@rmmglaw.com
Attorneys for Appellee City of Brecksville

Kenneth A. Kraus, Esq.
Law Director, City of Strongsville
Daniel J. Kolick, Esq.
Assistant Law Director
City of Strongsville
16099 Foltz Parkway
Strongsville, Ohio 44149
strongsville.law@strongsville.org
dkolick@kolick-kondzer.com
Attorneys for City of Strongsville

And by e-mail only upon:

Michael DeWine, Esq.
Attorney General of Ohio
Eric E. Murphy, Esq.
State Solicitor
(COUNSEL OF RECORD)
Michael J. Hendershot, Esq.
Chief Deputy Solicitor
Jeffrey Jarosch, Esq.
Deputy Solicitor
Aaron S. Farmer, Esq.
Assistant Attorney General
30 East Broad Street, 17th Floor
Columbus, OH 43215
Eric.murphy@ohioattorneygeneral.gov
Attorneys for Amicus Curiae State of Ohio

Elizabeth Wells Rothenberg, Esq.
Assistant Director of Law
City of Cleveland Heights
40 Severance Circle
Cleveland Heights, Ohio 44112
erothenberg@clvhts.com
*Attorneys for Appellee City of Cleveland
Heights*

Luke McConville, Esq.
Waldheger Coyne Co., LPA
1991 Crocker Road, Suite 550
Westlake, Ohio 44145
luke@healthlaw.com
*Attorneys for Amicus Curiae Village of
Newburgh Heights*

Andrea M. Salimbene, Esq.
Counsel of Record
McMahon Degulis LLP
1335 Dublin Road Suite 216A
Columbus, OH 43215
Asalimbene@mdllp.net
*Attorneys for Amici Curiae National
Association of Clean Water Agencies
(NACWA) and Association of Ohio
Metropolitan Wastewater Agencies
(AOMWA)*

Gregory J. DeGulis, Esq.
McMahon Degulis LLP
The Caxton Building, Suite 650
812 Huron Road
Cleveland, OH 44115-1168
gdegulis@mdllp.net
*Attorneys for Amici Curiae National
Association of Clean Water Agencies
(NACWA) and Association of Ohio
Metropolitan Wastewater Agencies (AOMWA)*

Erica M. Spitzig, Esq.
McMahon Degulis LLP
The Monastery
1055 St. Paul Place
Cincinnati, Ohio 45202
espitzig@mdllp.net
*Attorneys for Amici Curiae National
Association of Clean Water Agencies
(NACWA) and Association of Ohio
Metropolitan Wastewater Agencies
(AOMWA)*

Barbara Langhenry, Esq.
Director of Law
City of Cleveland
Harold A. Madorsky, Esq.
Shirley A. Tomasello, Esq.
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114
blanghenry@city.cleveland.oh.us
hmadorsky@city.cleveland.oh.us
stomasello@city.cleveland.oh.us
*Attorneys for Amicus Curiae City of
Cleveland*

Eric Luckage, Esq.
Counsel of Record
John Albers, Esq.
Albers and Albers
88 N. Fifth Street
Columbus, Ohio 43215
Eric.Luckage@alberslaw.com
John.Albers@alberslaw.com
*Attorneys for Amici Curiae Coalition of Ohio
Regional Districts, Deerfield Regional Storm
Water District and ABC Water and Storm
Water District*

Rosalina M. Fini, Esq.
Cleveland Metropolitan Park District
4101 Fulton Parkway
Cleveland, Ohio 44141
rmfl@clevelandmetroparks.com
*Attorneys for Amicus Curiae Cleveland
Metropolitan Park District*

Michael L. Hardy, Esq.
Karen E. Rubin, Esq.
Devin A. Barry, Esq.
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114
Mike.Hardy@ThompsonHine.com
Karen.Rubin@ThompsonHine.com
Devin.Barry@ThompsonHine.com.
*Attorneys for Amicus Curiae Cleveland
Metropolitan Park District*

Yvette McGee Brown, Esq.
Chad Readler, Esq.
JONES DAY
325 John H. McConnell Boulevard, Suite 600
PO Box 165017
Columbus, Ohio 43216-5017
ymcgeebrown@jonesday.com
*Attorney for Amici Curiae Village of
Cuyahoga Heights, Village of Moreland Hills,
and Orange Village*

Scott Claussen, Esq.
City of Brooklyn
7619 Memphis Avenue
Brooklyn, Ohio 44144
sclaussen@brooklynohio.gov
Attorneys for Amicus Curiae City of Brooklyn

Jerome Dowling, Esq.
Village of Brooklyn Heights
20800 Center Ridge Road, Suite 222
Rocky River, Ohio 44116
Jdowling6@cox.net
*Attorneys for Amicus Curiae Village of
Brooklyn Heights*

Thomas P. O'Donnell, Esq.
Village of Highland Hills
3700 Northfield Road, Suite 11
Highland Hills, Ohio 44122
todonnell@todlaw.com
*Attorneys for Amicus Curiae Village of
Highland Hills*

Joseph W. Diemert, Jr., Esq.
Joseph Diemert and Associates
1360 S.O.M. Center Road
Cleveland, Ohio 44124
receptionist@diemertlaw.com
Attorneys for Amicus Curiae Mayfield Village

Timothy G. Dobeck, Esq.
Parma City Hall
6611 Ridge Road
Parma, Ohio 44129
law@cityofparma-oh.gov
Attorneys for Amicus Curiae City of Parma

William M. Ondrey Gruber, Esq.
City of Shaker Heights
3400 Lee Road
Shaker Heights; Ohio 44120
william.gruber@shakeronline.com
*Attorneys for Amicus Curiae City of Shaker
Heights*

Peter H. Hull, Esq.
City of Middleburg Heights
15700 Bagley Road
Middleburg Heights; Ohio 44130
peterhull@gmail.com
*Attorneys for Amicus Curiae City of
Middleburg Heights*

Dale F. Pelsozy, Esq.
Cuyahoga County Prosecutor's Office
1200 Ontario Street, Justice Center 8th Fl.
Cleveland, Ohio 44113
dpelsozy@prosecutor.cuyahogacounty.us
*Attorneys for Amicus Curiae Olmsted
Township*

Michael P. Lograsso, Esq.
City of South Euclid
1349 South Green Road
South Euclid, Ohio 44121
mlograsso@seuclid.com
*Attorneys for Amicus Curiae City of South
Euclid*

Teresa Metcalf Beasley, Esq.
Calfee, Halter & Griswold LLP
The Calfee Building
1405 East Sixth Street
Cleveland, Ohio 44114
tmbeasley@calfee.com
*Attorneys for Amicus Curiae City of
Warrensville Heights*

Neal M. Jamison, Esq.
City of Brook Park
6161 Engle Road
Brook Park, Ohio 44142
njamison@cityofbrookpark.com
*Attorneys for Amicus Curiae City of Brook
Park*

Michael Pokorny, Esq.
City of Parma Heights
6281 Pearl Road
Parma Heights, Ohio 44130
law@parmaheightsoh.gov
*Attorneys for Amicus Curiae City of Parma
Heights*

David Lambros, Esq.
Village of Valley View
One Berea Commons, Suite 216
Berea, Ohio 44017
dalambrose@yahoo.com
*Attorneys for Amicus Curiae Village of Valley
View*

Richard A. Pignatiello, Esq.
City of Seven Hills
3479 Jasmine Drive
Seven Hills, Ohio 44131
law@sevenhillsohio.org
*Attorneys for Amicus Curiae City of Seven
Hills*

And via Regular U.S. mail, postage prepaid, only upon:

Eugene P: Holmes, Pro Se
23507 Royalton Road
Columbia Station, Ohio 44028

Penny Sisson, Pro Se
Box 266
Spencer, Ohio 44275

And by e-mail only upon:

<u>Party/Municipality</u>	<u>Attorney Representative</u>	<u>Service Address</u>
Bath Township	Mary Ann Kovach Michael D. Todd	kovach@prosecutor.summitoh.net toddm@prosecutor.summitoh.net See also: Summit County Defendants
Bedford	Kenneth A. Schuman Charles A. Bakula	kas@rgm-law.com charlesbakula@netscape.net
Berea	Gregory M. Sponseller	gsponseller@bereaohio.com
Boston Heights	Constance A. Hesske	attyhesske@hesske.com See also: Summit County Defendants
Bratenahl	David J. Matty Shana A. Samson Erin Hooper	dmatty@rmmglaw.com ssamson@rmmglaw.com ehooper@rmmglaw.com
Broadview Heights	Vince Ruffa Ann C. Oakar	vruffa@oakarandruffa.com aoakar@oakarandruffa.com annioakar@hotmail.com
Brook Park	Neal M. Jamison	njamison@cityofbrookpark.com neal.jamison@yahoo.com
Brooklyn	Scott D. Claussen	sclaussen@brooklynohio.gov scott.claussen@lakewoodoh.net
Brooklyn Heights	Jerome E. Dowling	benru677@att.net kbaciak@brooklynhts.org
Cleveland	Catherine Ma Shirley Tomasello	cma@city.cleveland.oh.us stomasello@city.cleveland.oh.us jscott@city.cleveland.oh.us
Columbia Township	Dennis P. Will Gerald A. Innes	lcp@lcprosecutor.org
Cuyahoga Heights	Jonathan D. Greenberg Aimee W. Lane	jgreenberg@walterhav.com alane@walterhav.com docket@walterhav.com
East Cleveland	Ronald K. Riley	rriley@eastcleveland.org
Euclid	L. Christopher Frey	cfrey@cityofeuclid.com
Garfield Heights	Timothy J. Riley Kevin P. Weiler	lawtjr@aol.com triley@garfieldhts.org kweiler@garfieldhts.org
Gates Mills	Charles T. Riehl Aimee W. Lane	criehl@walterhav.com alane@walterhav.com docket@walterhav.com

<u>Party/Municipality</u>	<u>Attorney Representative</u>	<u>Service Address</u>
Highland Heights	Timothy G. Paluf	tpaluf@highlandhts.com
Highland Hills	Thomas P. O'Donnell	todonnell@todlaw.com
Hudson	Charles T. Riehl	criehl@walterhav.com docket@walterhav.com
Lakewood	Kevin Butler Scott Claussen	law@lakewoodoh.net Kevin.Butler@lakewoodoh.net
Linndale	George T. Simon	hellogeorgesimon@gmail.com
Macedonia	Joseph W. Diemert, Jr. Thomas M. Hanculak Mark V. Guidetti	receptionist@diemertlaw.com jwdiemert@diemertlaw.com tmhanculak@diemertlaw.com mvguidetti@diemertlaw.com See also: Summit County Defendants
Maple Heights	John J. Montello	jmontello@bedfordlawyers.com mainoffice@bedfordlawyers.com
Mayfield Heights	L. Bryan Carr	carrlawfirm@aol.com
Mayfield Village	Joseph W. Diemert, Jr. Diane A. Calta	receptionist@diemertlaw.com dacalta@diemertlaw.com jwdiemert@diemertlaw.com
Middleburg Heights	Peter H. Hull	peterrhull@gmail.com
Moreland Hills	Margaret Anne Cannon	mcannon@walterhav.com
Newburgh Heights	Luke F. McConville	luke@healthlaw.com
North Randall	Leonard A. Spremulli	sprenulli@aol.com
North Royalton	Donna M. Vozar Thomas A. Kelly	dvozar@northroyalton.org tkelly@northroyalton.org dvoz74@hotmail.com tak@kellyandkelly.us carolyn@kellyandkelly.us
Northfield (Village)	Bradric Bryan	bbryan@gbs-llp.com gbsllp@gbs-llp.com See also: Summit County Defendants
Northfield Center Township	Mary Ann Kovach Michael D. Todd	kovach@prosecutor.summitoh.net toddm@prosecutor.summitoh.net See also: Summit County Defendants
Orange Village	Stephen L. Byron	sbyron@walterhav.com
Parma	Timothy Dobeck	tdobeck@parmalaw.org bwirtz@cityofparma-oh.gov
Parma Heights	Marcia E. Hurt Thomas A. Kelly C. Anthony Stavole	mehurt@stavoleandmiller.com admin@stavoleandmiller.com tak@kellyandkelly.us carolyn@kellyandkelly.us
Pepper Pike	Stephen L. Byron	sbyron@walterhav.com docket@walterhav.com
Richfield (Village of)	Charles T. Riehl William R. Hanna	criehl@walterhav.com whanna@walterhav.com

<u>Party/Municipality</u>	<u>Attorney Representative</u>	<u>Service Address</u>
		docket@walterhav.com See also: Summit County Defendants
Richfield Township		See: Summit County Defendants
Richmond Heights	R. Todd Hunt Aimee W. Lane	rthunt@walterhav.com alane@walterhav.com docket@walterhav.com
Sagamore Hills	Jeffrey J. Snell	jeff@attorneysnell.com See also: Summit County Defendants
Seven Hills	Richard A. Pignatiello Patrick DiChiro	pignatiellolaw@aol.com sevenhillslaw@aol.com
Shaker Heights	William M. Ondrey Gruber	william.gruber@shakeronline.com
Solon	David J. Matty Shana A. Samson Erin Hooper	dmatty@rmmglaw.com ssamson@rmmglaw.com ehooper@rmmglaw.com
South Euclid	Michael P. Lograsso	lograssolaw@aol.com
Twinsburg	David M. Maistros	dmaistros@twinsburg.oh.us davidmaistros@maistroslaw.com See also: Summit County Defendants
Twinsburg Township	Alfred E. Schrader	alschrader@choiceonemail.com See also: Summit County Defendants
University Heights	Kenneth J. Fisher	kfisher@fisher-lpa.com
Valley View	David A. Lambros	law2direct@aol.com
Walton Hills	John J. Montello Blair N. Melling	jmontello@bedfordlawyers.com mainoffice@bedfordlawyers.com
Warrensville Heights	Sean P. Ruffin	sruffin@cityofwarrensville.com khughes@cityofwarrensville.com sruffin@ruffinlegal.com
Willoughby Hills	Thomas Lobe	tomlobe@yahoo.com lawdirector@willoughbyhills-oh.gov
Summit County Defendants: Bath Township Boston Heights Hudson Macedonia Northfield Village Northfield Center Township Richfield (Village) Richfield Township Sagamore Hills Twinsburg Twinsburg Township	Sherri Bevan Walsh Mary Ann Kovach Michael D. Todd	kovach@prosecutor.summitoh.net toddm@prosecutor.summitoh.net

<u>Party/Municipality</u>	<u>Attorney Representative</u>	<u>Service Address</u>
Bishop Lennon Intervenors	L. James Juliano Matthew J. Fitzsimmons Michael E. Cicero	juliano@nicola.com fitzsimmons@nicola.com cicero@nicola.com
Intervenor, The Cleveland Municipal School District Board of Education	Adrian D. Thompson Brian E. Ambrosia	athompson@taftlaw.com bambrosia@taftlaw.com

/s/Sheldon Berns
Sheldon Berns (0000140)