

OHIO BOARD OF TAX APPEALS

Cleveland Clinic Foundation) CASE NO. 2005-V-1726
(Beachwood Family Health and)
Surgery Center),) (REAL PROPERTY
Appellant,) TAX EXEMPTION)
vs.) ORDER
William W. Wilkins,) (Lifting Stay and
Tax Commissioner of Ohio, and the) Setting Briefing Schedule)
Beachwood City School District)
Board of Education,)
Appellees.)

Cleveland Municipal School District) CASE NO. 2006-V-99
Board of Education,) (REAL PROPERTY
Appellant,) TAX EXEMPTION)
vs.)
William W. Wilkins,)
Tax Commissioner of Ohio, and)
The Cleveland Clinic Foundation)
(Taussig Cancer Center),)
Appellees.)

Cleveland Municipal School District) CASE NO. 2006-H-117
Board of Education,) (REAL PROPERTY
Appellant,) TAX EXEMPTION)
vs.)
William W. Wilkins,)
Tax Commissioner of Ohio, and)
Fairview Hospital,)
Appellees.)

APPEARANCES:

For the Property Owners - Jones Day
Stephen G. Sozio
Charles M. Steines
901 Lakeside Avenue
Cleveland, OH 44114

For the Appellee Tax Commissioner - Nancy H. Rogers
Attorney General of Ohio
Alan P. Schwepe
Assistant Attorney General
State Office Tower, 25th Floor
30 East Broad Street
Columbus, OH 43215

For the BOEs - Brindza, McIntyre & Seed LLP
David H. Seed
1111 Superior Avenue, Suite 1025
Cleveland, OH 44114

Entered January 6, 2009

These matters are considered once again by the Board of Tax Appeals following the receipt of a decision and remand order of the Ohio Supreme Court in the case of *Cleveland Clinic Found. v. Levin*, Slip Opinion No. 2008-Ohio-6197, Case No. 08-411 on the docket of that court. On December 17, 2008 this board received the court's judgment entry.

The Board of Tax Appeals finds that on January 25, 2008, we journalized an interim discovery order granting in part and denying in part motions to compel filed by Beachwood City School District Board of Education and Cleveland Municipal School District Board of Education (collectively "BOE") and motions for a protective order filed by the Cleveland Clinic Foundation and "CCF".¹ *Cleveland Clinic Foundation v. Wilkins* (Interim Order, Jan. 25, 2008), BTA Nos. 2005-V-1725,

¹ CCF collectively refers to Beachwood Family Health and Surgery Center, Taussig Cancer Center and Fairview Hospital.

et al., unreported. This board also approved the Stipulation and Confidentiality Orders, as modified, between CCF and the BOE.

Thereafter, CCF filed an appeal with the above-named court. On May 13, 2008, the instant appeals were placed on inactive status pending resolution of the Supreme Court case. On December 4, 2008, the court wrote:

“[t]he January 25, 2008 interim order of the BTA is vacated to the extent that the BTA declined to determine the trade-secret status of particular documents, but it otherwise remains in force. We remand to the BTA for further proceedings, with instructions to (1) determine the trade-secret status of particular documents, (2) determine whether CCF’s pursuit of the exemption applications constitutes a waiver of its trade-secret rights in these proceedings, and (3) afford adequate protection such as the sealing of particular documents, to the extent that trade-secret status has been properly established and has not been waived.” *Cleveland Clinic Found.*, supra, at ¶16.

As the Ohio Supreme Court case has been resolved, the reason for the stay no longer applies. Accordingly, these appeals are returned to the active case docket. Further, giving effect to the order and mandate of the court and acting under pertinent provisions of R.C. 5717.04, the parties are given the opportunity to file simultaneous briefs on or before January 30, 2009 addressing “whether CCF’s pursuit of the exemption applications constitutes a waiver of its trade-secret rights in these proceedings.”

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