

OHIO BOARD OF TAX APPEALS

W20005 Fargo Hotels Realty, L.P.,)
)
 Appellant,)
)
 vs.)
 Clark County Board of Revision, the)
 Clark County Auditor, the Clark-)
 Shawnee Local District Board of)
 Education, and the Board of Education of)
 The Springfield City Schools District,)
)
 Appellees.)
)

CASE NOS. 2007-M-1341
2007-M-1342

(REAL PROPERTY TAX)

ORDER

(Granting Consolidation and Denying Intervention)

APPEARANCES:

For the Property Owner -	Sleggs, Danzinger & Gill, Co., LPA Todd W. Sleggs 820 W. Superior Avenue, Suite 400 Cleveland, Ohio 44113
For the County Appellees -	Stephen Schumaker Clark County Prosecuting Attorney P.O. Box 1608 Springfield, Ohio 45501
For the Clark-Shawnee Bd. of Edn. -	Means, Bichimer, Burkholder & Baker Co., L.P.A. Robert M. Morrow 2006 Kenny Road Columbus, Ohio 43221
For the Bd. of Edn. of the Springfield - City Schools Dist.	Rich & Gillis Law Group, LLC Karol C. Fox 300 East Broad Street, Suite 300 Columbus, Ohio 43215

Entered March 31, 2009

These causes and matters come to be considered by the Board of Tax Appeals upon a motion to consolidate and motion to intervene, filed March 9, 2009, by counsel for the Board of Education of the Springfield City Schools District (“Springfield

BOE”). The appellant, W20005 Fargo Hotels Realty, L.P. (“Fargo”) previously sought consolidation of the appeals. In an order issued by this board on February 8, 2008, the board denied consolidation. At that time, the board was unable to confirm whether the affected boards of education, both Springfield BOE and Clark-Shawnee Board of Education (“Clark-Shawnee BOE”) had been provided notice of the appeals and whether the boards of education were in agreement as to consolidation. At the present time, counsel for the Springfield BOE has entered an appearance in BTA No. 2007-M-1342.

The board now finds consolidation is warranted as the record reflects that the subject property is used as a single economic unit, a hotel. Additionally, counsel for the Springfield BOE seeks an order from this board permitting the board of education to intervene in Case No. 2007-M-1341. The basis for intervention concerns the manner in which the value of the improvements are listed on the parcels by the Clark County Auditor’s records. According to the memorandum in support of the motion to intervene, the total value of the improvements are improperly listed on that portion of the subject property that is situated in the Clark-Shawnee school district, while, in reality, the improvements are constructed straddling the two school districts’ boundaries. Counsel argues that if intervention is not permitted, Clark-Shawnee BOE could potentially settle the matter with the Fargo, and potentially deprive the Springfield BOE of tax dollars for property within its boundaries.

This board has denied intervention when the entity seeking to participate has no statutory right to participate in the appeal. *The Cleveland Clinic Foundation v. Lawrence* (Interim Order, May 5, 2000), BTA No. 1999-A-1006. In *Sidman v. Tracy*

(Mar. 10, 1995), BTA No. 1994-P-790, unreported, this board first acknowledged the Supreme Court's pronouncement in *Avon Lake City School Dist. v. Limbach* (1988), 35 Ohio St.3d 118, 119, that "[a] litigant has no inherent right to appeal a tax determination, only a statutory right." The Springfield BOE has no statutory right to appeal the determination of value found by the BOR regarding the neighboring school district's property. Therefore, the board does not find intervention to be proper.

The matters are consolidated and will be scheduled in the ordinary course of the board's business.

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