

**OHIO BOARD OF TAX APPEALS**

Streetsboro City School District	)	CASE NO. 2008-T-269
Board of Education,	)	
	)	(BUDGET COMMISSION)
Appellant,	)	
vs.	)	ORDER
	)	
Portage County Budget Commission and	)	(Granting Motion to Reopen Record
Portage County Auditor,	)	& Denying Motion to File Additional
	)	Documentary Evidence)
Appellees.	)	

APPEARANCES:

For the Appellant -	Ulmer & Berne, LLP Adam C. Miller 88 East Broad Street, Suite 1600 Columbus, Ohio 43215-3581
For the Appellees -	Victor V. Viglucci Portage County Prosecuting Attorney Teresa M. Scahill Assistant Prosecuting Attorney 466 S. Chestnut Street Ravenna, Ohio 44266
Copy to -	Janet Esposito Portage County Auditor 449 South Meridian Street Ravenna, Ohio 44266-1217

Entered August 18, 2009

This matter is before the Board of Tax Appeals pursuant to the appellant's request to reopen the hearing record. The appellant asks the board to schedule a hearing so that the appellant may present additional evidence, which it asserts was not in its possession at the time of the parties' first hearing before this board.

Although the budget commission has objected to the request, the board notes that proceedings of the kind here in issue are not considered to be adversarial in nature. Rather, the proceedings are in the nature of an inquiry, administrative rather than judicial. *City of Brookpark v. Cuyahoga Cty. Budget Comm.* (1968), 16 Ohio St.2d 199, 123-124; *Brooklyn v. Cuyahoga Cty. Budget Comm.* (1965), 2 Ohio St.2d 181, 186. See, also, *Cleveland Public Library v. Budget Comm.* (1970), 23 Ohio St.2d 217 (holding that, upon appeal, the BTA's findings are to be substituted for those of the budget commission). Where, as here, the board learns that information exists which may be fundamental to its determination of a matter in the public interest, it is required to act to see that such information is made part of the record. See *Margaret Remy v. Limbach* (Aug. 24, 1989), Pickaway App. No. 88CA5, et seq., unreported, affirming BTA Nos. 1985-C-945, 946, 953, unreported (BTA may be required to obtain all information, either from parties or through independent investigation, under certain circumstances, including when it is a matter of public interest).

Accordingly, the appellant's request to reopen the record in this matter is granted. The parties shall be informed of the board's hearing date as soon as it becomes available.

Given this order, appellant's motion to file additional documentary evidence is denied as premature.

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On Behalf of the Board of Tax  
Appeals, Pursuant to Ohio Adm.  
Code 5717-1-10,

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Steven L. Smiseck  
Attorney Examiner