

OHIO BOARD OF TAX APPEALS

Board of Education of the South)	CASE NO. 2009-V-465
Euclid-Lyndhurst City School District,)	2009-V-466
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	ORDER
)	
Cuyahoga County Board of Revision,)	(Granting Motion to Quash
Cuyahoga County Auditor, and)	Subpoenas)
Brainard Medical Campus, Ltd.,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant -	Brindza, McIntyre & Seed LLP David A. Rose 1111 Superior Ave. Suite 1025 Cleveland, Ohio 44114
For the County Appellees -	William D. Mason Cuyahoga County Prosecuting Attorney Timothy Kollin 1200 Ontario Street Courts Tower, Ninth Floor Cleveland, Ohio 44113
For the Appellee Property Owner -	Siegel, Siegel, Johnson & Jennings Co., LPA Jay P. Siegel 25700 Science Park Drive Suite 210 Cleveland, Ohio 44122

Entered May 26, 2009

The Board of Tax Appeals considers this matter upon a motion of the Board of Education of the South Euclid-Lyndhurst City School District (“BOE”) to quash certain subpoenas for deposition directed to the BOE’s treasurer and president.

Counsel for the appellee property owner has filed a memoranda in opposition to the motion.

Appellant argues the issue of whether the BOE's officials are subject to subpoena have been considered on several prior occasions by this board and other courts. See, *J.C. Penney Properties, Inc. v. Franklin Cty. Bd. of Revision* (Interim Order, Jan. 19, 1982), BTA Nos. 1981-D-509, et seq., unreported; *Metro Office Towers v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Oct. 30, 1987), BTA No. 1984-B-1112, et al., unreported; *Dublin Techmart L.P. v. Franklin Cty. Bd. of Revision* (Interim Order, June 23, 1989), BTA No. 1988-F-847, unreported; *Canton City School Dist. Bd. of Edn. v. Stark Cty. Bd. of Revision* (Interim Order, Feb. 11, 2000), BTA Nos. 1997-K-1664, et seq., unreported; *S. Euclid-Lyndhurst City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Sept. 1, 2000), BTA Nos. 2000-K-385, et seq., unreported; *S. Euclid-Lyndhurst City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Mar. 15, 2002), BTA Nos. 2001-A-439, et seq., unreported; *Bd. of Edn. of the Columbus City School Dist. v. Franklin Cty. Bd. of Revision* (May 23, 2003) BTA No. 2002-M-2018, unreported; *S. Euclid-Lyndhurst City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, May 2, 2003), BTA No. 2002-A-2043, unreported; *Duncan Oil Co. v. Hamilton Cty. Bd. of Revision* (Mar. 25, 2005), BTA No. 2003-M-828, unreported; and *Meyer v. Cuyahoga Cty. Bd. of Revision* (1979), 58 Ohio St.2d 328; *Pepper Pike Place Assoc. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Jan. 16, 2004), BTA Nos. 2003-A-709, 2003-A-734, unreported, and again in *Pepper Pike Place Assoc. v. Cuyahoga Cty. Bd.*

of Revision (Interim Order, Apr. 16, 2004), BTA Nos. 2003-A-709, 2003-A-734, unreported.

The appellee property owner argues that “[t]he subpoenas issued make no reference to motive, method, or intention regarding filing of real estate tax complaints.” The property further argues that the cases cited above deal with counsel’s past attempts to subpoena school district officials to inquire into the BOE’s motivation to file the underlying complaints, however, nothing in the record suggests why the instant subpoenas are sought.¹ Notwithstanding the property owner’s argument, and without any showing from counsel as to what non-privileged information these school district officials might possess which might lead to admissible evidence concerning the fair market value of the subject property, it appears counsel is seeking to discover the same information this board has repeatedly denied.

For the same reasons as this board has repeatedly held in the cases above and in *KIN Inc. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, May 1, 1998), BTA No. 1997-G-216, unreported, the instant subpoenas are hereby quashed.

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¹ Although not alleging these facts exist today with the instant appeal, the property owner further muses that *if* a scenario existed in which the BOE were unlawfully filing complaints based upon constitutionally protected classes of individuals, quashing said subpoenas would not permit counsel to develop his constitutional claim.