

Kinvernon Corporation,)	
)	CASE NO. 96-R-1472
Appellant,)	
)	(REAL PROPERTY)
)	
vs.)	ORDER
)	
Hamilton County Board of)	(Granting the County Appellees'
Revision, Hamilton County)	Motion to Strike)
Auditor, and the Cincinnati)	
City School District Board)	
of Education,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant	-	C. Christopher Muth, Esq. Charles R. Dyas, Jr., Esq. Dinsmore & Shohl LLP 1900 Chemed Center 255 East Fifth Street Cincinnati, Ohio 45202-3172
For the County Appellees	-	Joseph T. Deters, Esq. Hamilton County Prosecuting Attorney By: Thomas J. Scheve, Esq. Assistant Prosecuting Attorney 230 East Ninth Street, Suite 7000 Cincinnati, Ohio 45202-2151
For the Appellee Board of Education	-	David C. DiMuzio, Esq. Wood and Lamping 2500 Cincinnati Commerce Center 600 Vine Street Cincinnati, Ohio 45202

Entered February 6, 1998

This matter is now before the Board of Tax Appeals upon a "Motion to Strike" and supporting "Memorandum" of law filed by counsel for the county appellees. Counsel's motion seeks an order from this Board striking appellant Kinvernon Corporation's ("Kinvernon") Proffer of Supplemental Evidence, which was filed

with the Board on January 29, 1998. The county appellees' Memorandum provides, in pertinent part, as follows:

"The Appellant now seeks to proffer an unsigned document which expresses an opinion for an entirely different tax year. ***.

"We urge the Board to strike the proffered document as not being relevant or admissible evidence, as it is not part of the record, not signed, not sworn, not authenticated in any way (sic) not subject to cross-examination and not even relevant to the tax lien date in question."

The document which Kinvernon attempts to add to the record consists of a "Summary Appraisal Report - Limited Appraisal," prepared by Mr. Thomas M. Heywood, a senior appraiser with the Hamilton County Auditor's office. It should be noted that Mr. Heywood testified at the hearing before this Board for the county appellees concerning the real property which is the subject of this appeal. (See the May 13, 1997 record.) Mr. Heywood's "Appraisal" is dated October 27, 1997, which is well after the evidentiary hearing in the present appeal. Further, Mr. Heywood's "Appraisal" values the subject property as of January 1, 1996, one year after the tax lien date at issue. In addition, the "Appraisal Report" submitted to the Board by Kinvernon is unsigned.

As we have outlined before in our previous September 26, 1997 order, the Board of Tax Appeals' directive from the General Assembly is to find the true value of the subject property based on relevant, competent, probative, and reliable evidence. In this Board's opinion, Mr. Heywood's unsigned, summary appraisal report, expressing a value of the subject property one year after the

relevant tax lien date, and about which neither the opposing parties nor this Board have had an opportunity to cross-examine and question the author, does not meet these qualifications.

Furthermore, once an appeal has been submitted to the Board following an evidentiary hearing and briefs, the Board will not consider supplemental evidence absent extraordinary circumstances, which the appellant has not demonstrated in its proffer.

Therefore, based upon the foregoing, this report cannot, and will not, be considered by this Board in rendering its decision.

Accordingly, it is the order of the Board of Tax Appeals that the county appellees' Motion to Strike is well taken, and hereby granted.

It is further ordered that a copy of this order be sent to each of the parties hereto by and through their respective counsel.

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