

# OHIO BOARD OF TAX APPEALS

Columbus City School District	)	CASE NOS. 00-M-607, 616, 617
Board of Education,	)	
	)	
Appellant,	)	(REAL PROPERTY TAX)
	)	
	)	DECISION AND ORDER
vs.	)	
	)	
Thomas M. Zaino,	)	
Tax Commissioner of Ohio,	)	
	)	
Appellee.	)	

## APPEARANCES:

For the Appellant	- Martin J. Hughes III Green & Hughes Co., LPA 100 E. Wilson Bridge Road, Suite 210 Worthington, Ohio 43085
For the Appellee	- Betty D. Montgomery Ohio Attorney General By: Richard Farrin Assistant Attorney General 30 E. Broad Street, 16 <sup>th</sup> Floor Columbus, Ohio 43215
For the Appellee Property Owner	- Apollo Realty Finance Ohio LLC National Realty Services 5131 Post Rd., Suite 200 Dublin, OH 43017

Entered: October 19, 2001

Mr. Johnson, Ms. Jackson, and Ms. Margulies concur.

These causes and matters are considered by the Board of Tax Appeals pursuant to Notices of Appeal filed herein by the above-named appellant. These appeals are taken from final determinations of the Tax Commissioner, wherein that official dismissed complaints against the continuing exemption of

certain real property from taxation, filed by appellant, the Columbus City Schools Board of Education (“BOE”).

The properties which are the subject of these appeals are located on Airport Drive in the City of Columbus, Columbus City School taxing district of Franklin County and are further identified by the following parcel numbers: 010-239285, 010-241658 and 010-236482. The properties were owned in 1999 by Apollo Realty Finance Ohio, LLC. The properties were granted exemption from taxation pursuant to R.C. 3735.65 *et seq.* Through such statutes, the General Assembly prescribed a method for creating a Community Reinvestment Area (“CRA”) and allowed for an exemption from real property taxation provided certain conditions are met. Notwithstanding the specific provisions contained in R.C. 3735.68 to revoke an exemption, the BOE sought the Tax Commissioner’s review under his authority to consider the continued grant of real property tax exemption pursuant to R.C. 5715.27. The Commissioner concluded that R.C. 3735.65, *et seq.*, being the specific statutes, prevailed over the general provisions of R.C. 5715.27. Therefore, the Tax Commissioner concluded that he had no jurisdiction to consider the continued grant of real property tax exemption granted exemption under R.C. 3735.65 *et seq.*

Recently, in *Gahanna-Jefferson Local School Dist. Bd. of Edn. v. Zaino* (2001), 93 Ohio St.3d 231, the Ohio Supreme Court considered both R.C. 5715.27 and R.C. 3735.65, *et seq.*, and concluded that the specific requirements found to remove a real property exemption under the statutes creating a Community Reinvestment Area (“CRA”) could be harmonized with the general grant of authority to the Tax Commissioner to review continued grants of real property tax exemption. The Court concluded that R.C. 3735.65 *et seq.* and R.C. 5715.27 were not in conflict and both provided avenues for challenge to differing constituents. A board of education meeting the complaint requirements of R.C. 5715.27(E) may challenge the continued exemption of a property granted

exemption under a CRA to the Commissioner. Therefore, the Commissioner erred when he concluded that he was without authority to consider the continued exemption from real property tax of property granted exemption under a CRA.

The identical facts exist in the present matters. Therefore, we conclude that *Gahanna-Jefferson Local School Dist. Bd. of Edn.* is controlling and find that the Tax Commissioner erred when he dismissed the present complaints.

Considering the record before us, this Board finds and determines that the Commissioner erred when he concluded he was without jurisdiction to consider the BOE's complaints. The matters are remanded to the Tax Commissioner for further consideration.

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