Tax year 2023 BOR no. 2023-050

County Clark Date received 3/26/2024

DTE 2
Rev. 10/19

Complaint Against the Assessment of Real Property Other than Market Value

Use this form to file board of revision complaints regarding assessment issues other than the market value of property. Complaints against market value should be filed on the DTE Form 1. Answer all questions and type or print all information. Read the instructions on the back before completing form. Attach additional pages as necessary.

☑ Original complaint ☐ Counter complaint

Notices will be sent only to those named below.

	Name	Street address, City, State, ZIP code
1) Owner of property	Zuber Crossing, LLC	7771 Concord Rd, Delaware, Ohio 43015
2) Complainant if not owner		
3) Complainant's agent		
4) Telephone number of contact person	(614) 515-7594	
5) Email address of complainant	lifetimeinvestmentsohio@gmail.com	
6) Complainant's relationship to property, if not owner		

If more than one parcel number is included, see "Multiple Parcels" on back

7) Parcel number from tax bill	# Acres, if applicable	Address of property
320020000100141	1.51 Acres Bechtle Ave	1.51 Acres Bechtle Ave

FILED
CLARK COUNTY AUDITOR
MAR 26 2024
HILLARY HAMILTON
AUDITOR

8) Indicate the reason for this complaint:

- ☑ The classification of property under RC 5713.041.
- ☑ The classification of property under RC 319.302.
- ☐ The denial of a CAUV application filed under RC 5713.32 or the conversion of CAUV property under RC 5713.33.
- ☑ The valuation of property on the agricultural land tax list.
- ☐ Determination whether good cause exists for land on the CAUV program to remain idle under RC 5713.30(A)(4).
- ☐ Determination of whether good cause exists for the failure to file a CAUV renewal application pursuant to RC 5713.351.
- ☐ The denial of the partial exemption of a qualifying child care center under RC 323.16.

9) If the complaint is seeking a change in the value of the property, complete line 9. Complainants appealing other issues do not need to complete this line.

Parcel number	Column A Complainant's Opinion of Value (Full Market Value)	Column B Current Value (Full Market Value)	Column C Change in Value
3200200001000141	$26,425	$655,140	-$628,715
	$	$	-$
	$	$	-$

10) The requested change is justified for the following reasons:

The parcels above were part of the residual after lot splits in 2015 of a 26 acre parcel which had a Land use code of 100. The Use of the Land is "Agricultural" to wit Hayfields which is currently bale 2 or more times a year in 2019,2020, 2021, 2023 and 2024. See Attached for More.

I declare under penalty of perjury that this complaint (including any attachments) has been examined by me and to the best of my knowledge and belief is true, correct, and complete.

Date 03/25/2024 Complainant or agent _____ Signature Title (if agent) Manager

Sworn to and signed in my presence, this 25 day of March year 2024

Notary _____ Signature

SHELLY BARKER
Notary Public, State of Ohio
My Comm. Expires Aug. 19, 2024

Instructions for Completing DTE 2

FILING DEADLINE: A COMPLAINT FOR THE CURRENT TAX YEAR MUST BE RECEIVED BY THE COUNTY AUDITOR ON OR BEFORE MARCH 31 OF THE FOLLOWING TAX YEAR OR THE LAST DAY TO PAY FIRST-HALF TAXES WITHOUT A PENALTY, WHICHEVER DATE IS LATER. A COUNTER-COMPLAINT MUST BE FILED WITHIN 30 DAYS AFTER RECEIPT OF NOTICE FROM THE AUDITOR THAT AN ORIGINAL COMPLAINT HAS BEEN FILED.

WHO MAY FILE: Any person owning taxable real property in the county, the board of county commissioners, the county prosecutor, the county treasurer, the board of township trustees of any township with territory in the county, the board of education of any school district with territory in the county, or the mayor or legislative authority of any municipal corporation with territory in the county may file a complaint. See R.C. 5715.19 for additional information.

TENDER PAY: If the owner of a property files a complaint that seeks a reduction in the taxable value of that property, the owner is entitled to tender to the county treasurer an amount of taxes based on the valuation claimed for the property in the complaint. NOTE: if the amount tendered is less than the amount finally determined, interest will be charged on the difference. In addition, if the amount finally determined equals or exceeds the amount originally billed, a penalty will be charged on the difference between the amount tendered and the original amount.

MULTIPLE PARCELS: Only parcels that (1) are in the same taxing district and (2) have identical ownership may be included in one complaint. Otherwise, separate complaints **must** be used. However, for ease of administration, parcels that are (1) in the same taxing district, (2) have identical ownership, and in the case of complaints challenging the eligibility of property for CAUV, (3) are farmed as a single economic unit should be included in one complaint. The increase or decrease in valuation may be separately stated for each parcel or listed as an aggregate sum for the economic unit. If more than three parcels are included in one complaint, use additional sheets of paper.

GENERAL INSTRUCTIONS: The Board of Revision will notify all parties not less than ten days prior to the hearing of the time and place the complaint will be heard. The complainant should submit any documents supporting the complaint to the Board prior to the hearing. The Board may also require the complainant and/or owner to provide the Board with additional information be filed with the complaint and may request additional information at the hearing.

R.C. 5715.19(G) provides that "a complainant shall provide to the Board of Revision all information or evidence within the complainant's knowledge or possession that affects the real property" in question. Evidence or information that is not presented to the Board cannot later be presented on any appeal, unless good cause is shown for failure to present such evidence to the Board.

NOTICE REGARDING LINE 5: If the county auditor is in possession of an email address for you the auditor may choose to send any notices the auditor is required to send regarding this complaint by email and regular mail instead of by certified mail.

INSTRUCTIONS FOR LINE 8. Following is a brief description of the types of complaints that can be filed by using this form. Complaints against the market value of property should be filed on the DTE Form 1.

The classification of property under RC 5713.041. Check this box if the complaint is contesting the classification of the property based on its primary use or, in the case of vacant land, its highest and best use, or the failure to tax mineral rights separately from land that is used for agricultural purposes.

The classification of property under RC 319.302. Check this box if the complaint is contesting whether the property is eligible for the non-business tax credit for qualifying levies.

The denial of a CAUV application filed under RC 5713.32 or the conversion of CAUV property under RC 5713.35. Check this box if the complaint is contesting the denial of an initial CAUV application or the removal of property from the CAUV program and the subsequent billing of recoupment.

The valuation of property on the agricultural land tax list. Check this box if the complaint is contesting the auditor's application of the CAUV Table to the property, e.g. listing land as cropland which the complainant believes should be listed as conservation or woodland property, or if the complaint is contesting the accuracy of the value in the CAUV Table as it relates to the property. Note that the complainant will be required to prove that the alternative value is more accurate using valid sales data. See OAC 5703-25-34(L).

Determination whether good cause exists for land on the CAUV program to remain idle under RC 5713.30(A)(4). Check this box if the complaint is seeking this finding to allow CAUV property to remain idle for a second year.

Determination of whether good cause exists for the failure to file a CAUV renewal application pursuant to RC 5713.351. Check this box if the complaint is seeking this finding to have the property reinstated in the CAUV program following the failure to file or timely file a renewal application.

Denial of the partial exemption of a qualifying child care center under RC 323.16. Check this box if the complaint is seeking reversal of the county auditor's denial of an Application for the Partial Exemption of a Qualifying Child Care Center, DTE 105J.

Instructions for Line 9. In Column A enter the complainant's opinion of the full market value of the parcel before the application of the 35% percent listing percentage. In Column B enter the current full market value of the parcel. This will be equal to the total taxable value as it appears on the tax bill divided by 0.35. Enter the difference between Column B and Column A in Column C.

ATTACHMENTS TO ZUBER CROSSING. LLC , Compliant Against Assessment of Real Estate other than Market Value.

The Following are attachments to the Complaint against the Assessment of Real Property other than Market value filed on or before March 31, 2024.

During the course of e-mail discussions with the Clark County Auditor in 2019 and 2020 with respect to the 2019 and 2020 CAUV application of Zuber Crossing, LLC and the Owner Zuber Crossing, LLC continues to use of 2 parcels that are at issue in this Complaint "agricultural purposes" as defined in OAC 5703-25-10 as Growing Hay Fields. This is an annual issue since the law requires the Auditor to observe the "use" of the property each year and the two (2) parcels at issue from the years 2019 – 2023 have clearly been used for agricultural purposes.

The Auditor has **misclassified** Parcels 320060061000124 (5.62 acres); 320020001000141 (1.51acres); In reviewing the County Auditor cards for the two parcels for the CAUV valuation for which we applied we noticed that on the auditor card you classified the two (2) parcels at issue as **Land Use 400 Commercial**. These two (2) parcels are the residual parcels (totaling 7.13 acres) from a **26.57-acre** field **Parcel Number 330-06-00006-100-019** after subdivision and subsequent sales to Hobby Lobby, Dollar General and IHop in 2015.

These appeals are required by Ohio Law to be made on an annual basis when the Auditor continues to misapply the Ohio law and the Ohio Constitution. This matter has been heard by this Board for the Tax Assessment years of 2020, 2021, 2022 and now 2023. Currently we are still awaiting a decision in the 2021 matter that was appealed to the Ohio Board of Tax Appeals (Case Numbers 2021-1144 and 2021-1145). Last year's erroneous BOR determination was also appealed to the Ohio Board of Tax Appeals and has been stayed by an agreement of the parties until we receive a written decision of the Ohio Board in the 2021 case.

There does not appear to be any dispute in any of the years that the Land has been used for commercial agricultural purposes. There have been no other commercial uses of the property. The only income from the property is related to the sale of Hay that is baled at least 2 times per year.

Exhibit 1. A copy of the 2015 Tax Bill for the entire 26-acre parcel is attached for your reference and consideration.

Prior to 2015 the entire 26 acres plus the 4.92 acres (not at issue) also owned by Zuber Crossing adjacent to the 3 at issue were used to grow hay and from time to time were harvested as such. After the lot split the residual 3 parcels continued to be used to grow hay and the Hay has been harvested from 2019 thru 2021 and evidence of such was provided to the County Auditor. Just because a lot was split or subdivided did not change its use by the mere lot split. 2019 was the first year we looked to get into a formal lease agreement with someone for a longer term than 1 year and apply for the CAUV value on the commercial agricultural use of all 4 parcels as Hayfields. The Lots in question have been farmed under a farm lease since January 1, 2019 and have produced at least 2 cuttings of hay each year. The fields were reseeded during 2021 and yields increased during that year. During 2022 the fields were once again cut and produced baled hay in 2 cuttings in June and August.

Although these 2 lots are the only ones contested where the Auditor errored in its classification in which we are appealing once again before Board of Revision, they are part of a 7-parcel (tract 26.93 acres) owned and used by Zuber Crossing, LLC (we acquired additional acreage, including non-commercial woodland and land that has been used for agricultural use that required a new survey to complete the transfers that were anticipated in 2018).

Exhibit 2. These tracts of land are all adjoining as follows:

1. Parcel 3200200001000128 4.93 Acres Auditors Land Use Classification: 100 Ag Vacant Land (2.2 Acres was subdivided and sold in 2023)
2. Parcel 3200200001000141 1.51 Acres Auditors Land Use Classification: 400 Commercial Vacant Land (**Subject Appeal**)
3. Parcel 3300600006100024 5.62 Acres incl woods Auditors Land Use Classification: 400 Commercial Vacant Land (**Subject Appeal**)
4. Parcel 3200200001000127 0.17 Acres Auditors Land Use Classification: 503 Res. Vacant/(100 Ag Vacant Land Prior Year)
5. Parcel 3300600006100026 1.66 Acres Auditors Land Use Classification: 503 Res. Vacant (split off from 13.27 Acre parcel)
6. Parcel 3300600006100019 11.59 Acres Auditors Land Use Classification: 400 Commercial Vacant (503 Res. Vacant).
7. TOTALS 25.48 Acres

As you can see the auditor has classified the other adjoining parcels as Agricultural or Residential according their principal and current use which is agricultural, however refuses to consider the agricultural use of the two subject parcels which is a violation of the Ohio Constitution and Ohio law. Since the classification is to be done annually by the Auditor based on its principal and Current Use we are once again before the Board of Revisions on these 2 parcels.

In retrospect we were not paying attention, but we should have been more diligent because of the increase in the tax bills (The total for the 26 acres in 2015 was $4,963.38) and we believe we have overpaid in 2017 and 2018. Shame on us for not catching it earlier.

Exhibit 3.

Article 12 Section 2(C) of the Ohio Constitution provides:

(C) Notwithstanding Section 2 of this article, laws may be passed that provide all of the following:

(1) Land and improvements thereon in each taxing district shall be placed into one of two classes **solely for the purpose of separately reducing the taxes charged against all land and improvements** in each of the two classes as provided in division(C)(2) of this section.

The classes shall be: **(a) Residential and agricultural land and improvements;**

(b) All other land and improvements.

This Constitutional provision was added in 1980 by the Ohio voters to eliminate the exact issue we have here, that the use of the land that is currently used for residential or agriculture will be reduced where the use is consistent with agricultural or residential uses, even though the highest and best use of the land may be commercial or industrial or classified as other. The concern was that urban sprawl would tax citizens with residential or agricultural use next to commercial developments out of existence unless the real estate taxes would be reduced based on the activity on the parcel.

Exhibit 4.

It was pointed out that the Ohio Administrative Code section 5703-25-10 (A) requires the County Auditor to classify taxable real property into one of two classifications:

(1) Residential and **agricultural land** and improvements;

(2) All other taxable land and improvements, including **commercial**, industrial, mineral and public utility land and improvements.

OAC Section 5703-25-10 (B) requires "Each separate parcel of real estate with improvements shall be classified according to its principal and current use...."

Defined under that Section is "(1) Agricultural land and improvements" - "The land and improvements to land used for agricultural purposes , including but not limited to , general crop farming, dairying, animal and poultry husbandry, market and vegetable gardening, floriculture, nurseries, fruit and nut orchards, vineyards and forestry." Although growing hay is not specifically listed as an agricultural purpose, I would think logically it would be included since it is one of the specified uses on the CAUV application for which we applied. If you look under further under the aforesaid Administrative code section requiring proper coding of the real estate according to its current use you will find the following classifications:

The first digit identifies the major use and the last two digits the sub-use or group. Parcels, other than exempt property, that are vacant (no structures or improvements present) shall be coded 100, 200, 300, 400 or 500 depending on the respective class unless part of an existing unit. Certain numbers are left blank to provide for
future expansion.

Use
100 Agricultural vacant land
101 Cash - grain or general farm
102 Livestock farms other than dairy and poultry
103 Dairy farms
104 Poultry farms
105 Fruit and nut farms
106 Vegetable farms
107 Tobacco farms
108 Nurseries
109 Green houses, vegetables and floraculture
110 Agricultural vacant land "qualified for current agricultural use value"

111 Cash - grain or general farm "qualified for current agricultural use value"
112 Livestock farms other than dairy and poultry "qualified for current agricultural use
value"
113 Dairy farms "qualified for current agricultural use value"
114 Poultry farms "qualified for current agricultural use value"
115 Fruit and nut farms "qualified for current agricultural use value"
116 Vegetable farms "qualified for current agricultural use value"
117 Tobacco farms "qualified for current agricultural use value"
120 Timber or forest lands not qualified for the Current Agricultural Use Value program pursuant to section 5713.31 of the Revised Code or the Forest Land Tax program pursuant to section 5713.23 of the Revised Code
121 Timber land taxed at its "current agricultural use value" as land used for the growth of noncommercial timber pursuant to section 5713.30(A)(1) of the Revised Code
122 Timber land taxed at its "current agricultural use value" as land used for the commercial growth

Originally, the Auditor has misinterpreted Section 5713.041 of the Ohio Revised Code and Ohio Administrative Code OAC Section 5703-25-10 (B) to only classifying vacant land as "Agricultural" if it qualifies under CAUV. While we continue to maintain that that the multiple parcels owned and used to grow and bale hay since its ownership (auditor also failed to consider the growth of noncommercial timber in connection with the CAUV application), clearly OAC Section 5703-25-10(B) classifies Agricultural vacant land under code 100. This is clearly demonstrated in the Auditors classification of the another parcel farmed as a unit by Zuber Crossing (Not at issue here) Parcel 3200200001000128 containing 4.93 that is adjacent to the subject properties IS MORE PROPERLY CLASSIFIED according to its use as Classification "100 Agricultural Land Vacant". Perhaps it would be better or more properly classified as **Classification of 101 - General Farm**. See attached Auditors card for reference.

The aforementioned code section defines "Commercial land and improvements" as "The land and improvements which are owned or occupied for general commercial and income producing purposes and where income is a factor to be considered in arriving at its true value …." The only income the parcels in question produce is from Hay which is an agricultural purpose and not a "general commercial and income producing purpose where production of income is a factor. The 26 acres was owned and held for around 10 years before the best locations were split off and sold and only the parts that were sold off are now used for commercial

purposes. The remaining parcels that represent the remaining residual acreage have been and will continued to be used for agricultural purposes and probably may not be sold for another 10 years or so because these were the least desirable locations and certainly are not worth the value that was assessed for 2021.

Exhibit 5. Attached are **Section 5713.041 of the Ohio Revised Code** requiring the Auditor to classify property according to its use, including lands used for agricultural uses and OAC 5703-25-10 for your reference and consideration.

Clearly, the County auditor is on notice that all parcels are and have been used for "agricultural purposes" as defined in OAC 5703-25-10 since we have provided you evidence of the baling of hay in 2019, 2020, 2021 and 2022 from the growing hay that was in place on the date of the assessment. We do not believe the Auditor is continuing to dispute that we have in fact are growing and baling hay on the three subject properties.

While we believe we were entitled to a CAUV valuation for the 2019 thru 2024 Crop year based on the evidence we have provided to the County Auditor irrespective of whether he classified the property as commercial or Agriculture, this Complaint is based on the misclassification of the 2 residual parcels from the original 26 acre parcel. The issues here have nothing to do with the CAUV classification but rather the "Principal and Current use" which is Agricultural.

We believe that Clark County has reaped a windfall in real estate tax revenue from the misclassification in the past couple years. We have reapplied for CAUV application use for all seven (7) parcels for the 2023 hay crop year.

At the Board of Revision hearing on this issue in June of 2021 and subsequent years, the Board of Revision completely ignored the purpose of the Ohio Constitution Article 12 Sect 2(c) and the purpose of Ohio Revised section 5713.041 to reduce the taxes where the current use is agriculture and the first sentence which provides:

Each separate parcel of real property shall be classified by the county auditor according to its principal, current use.

Instead the BOR erroneously focused on the word "Vacant" in the second sentence of the statute which provide that: **Vacant** lots and tracts of land upon which there are **no structures or improvements** shall be classified in accordance with their location and their highest and best probable legal use.

The Board implicitly equated the term: "**vacant**" to mean **no structures or improvements** rather than **vacant to mean no current use on the land**. If the word "vacant" meant no structures or improvements, then the use of the words "lands upon which there are no structures or improvements" is completely redundant and superfluous in the sentence context. It also expressly ignores the intent of the statute and leads to the absurd result that 2 farmers growing the same hay crop adjacent to commercial land, one has a pole barn building in which he houses his hay equipment and hay and the other had no structures or improvements on the hay field, only the one with the pole building would be entitle to the classification of agriculture classification under ORC section 5713.041.

While these two parcels were purchased as investment property, it has not been sold in the past 20 years and may not for a long time because it is the less desirable residual of a larger parcel. The undersigned intends to keep farming the parcel for as long as it owns it and may construct a pole building for storage of its hay equipment and/or hay. The undersigned is entitled to the proper classification of the property by the Clark County Auditor based on its principal and current use of the land which is Agricultural.

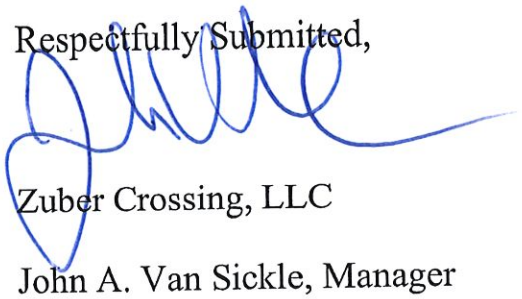
Exhibit 6 Maralgate v. Greene County Board of Revisions

As a side note we have for the current year made an application under the CAUV provisions of the Ohio Revised Code that include these 2 parcels in question along with other parcels that qualify. Guidance to this matter can also be ascertained in the Ohio Supreme Court Decision in the case or Maralgate v. Greene County Board of Revisions (Slip Opinion No. 2011-Ohio -5448). The Supreme Court in applying the CAUV provisions noted:

... the county is mistaken when it contends that Maralgate could receive the tax preference only for that portion of the parcel that was being actively cultivated; as a result, Maralgate did not have the burden to present a land survey showing how much of the parcel was devoted to different uses. Contrary to the county's argument, the case law requires such a survey **only if there is a commercial use of part of a parcel that is not an agricultural use**. In the present case, those portions of the parcel not actively cultivated were not used for any commercial purpose.

Zuber Crossing, like Maralgate does not have any part of its parcel, including the 2 in question not used for any commercial purposes.

Respectfully Submitted,



Zuber Crossing, LLC

John A. Van Sickle, Manager

STEPH N T. METZGER
CLARK COUNTY TREASURER
A.B. GRAHAM BUILDING
P.O. BOX 1305
SPRINGFIELD, OHIO 45501-1305
937-521-1832

We have incorporated several changes to our billing format. Please call if you have any questions. If you receive more than one envelope containing tax bills, please advise us of the correct mailing address.

Exhibit 1

REAL ESTATE TAX: TAX YEAR 2015

PROPERTY ADDRESS: N BECHTLE AVE

STUB # 60589 PAGE 13263/3 LINE

PARCEL ID: 330-06-00006-100-019

TAX DISTRICT: SPRINGFIELD CORP. CSLSD

NORTH BECHTLE SQUARE I INV LLC 95
ATTN JOHN VLAHOS
10085 WELLINGTON BLVD
POWELL OH 43065-7671

OWNER NAME: (January 1) NORTH BECHTLE SQUARE I INVESTMENTS LLC

LEGAL DESCRIPTION: PTS N W & N E QRS

TAX RATES

EFFECTIVE TAX RATE	58.299052
GROSS TAX RATE	70.200000

NON-BUSINESS CREDIT ROLLBACK FACTOR: 0.088181	OWNER OCCUPANCY CREDIT ROLLBACK FACTOR: 0.022045

HMSTD RED VALUE		
CLASSIFICATION	R	503
ACRES		26.5700

DISTRIBUTION

Clark County	1,158.45
Clark-Shawnee Lsd	3,059.01
Springfield Clark County Jvsd	206.15
Springfield City	345.78
Clark County Health & Library Levy	193.99

MARKET VALUE

Land	Building	Total
266,780	0	266,780

TAXABLE VALUE

Land	Building	Total
93,370	0	93,370
HOMESTEAD	CAUV Value	TIF

SPECIAL ASSESSMENT

PROJ # AND DESCRIPTION	DELINQUENT	CURRENT
TOTAL		

LAST DAY TO PAY WITHOUT PENALTY
02/12/2016

CURRENT TAXES

Gross Real Estate Taxes	6,554.68
Tax Reduction	-1,111.29
Subtotal	5,443.38
Non Business Credit	-480.00
Current Net Real Estate Taxes	4,963.38
Current Net Taxes & Asmts (Year)	4,963.38
Current Net Taxes & Asmts (Half)	2,481.69
PAYMENTS/CREDITS	0.00
TOTAL REAL ESTATE TAX DUE	$2,481.69
FULL YEAR AMOUNT	$4,963.38

Exh 2.

3300600006100024

3/22/2024

CLARK COUNTY OHIO

Hillary Hamilton
County Auditor
Clark County, Ohio
clarkcountyauditor.org

Parcel	Address	Owner	Appraised
3300600006100024	0 N BECHTLE AVE SPRINGFIL...	ZUBER CROSSING LLC	$1,149,290.00
(400) COMMERCIAL VACANT L...	CLARK-SHAWNEE LSD	SOLD: 12/26/2018 $0.00	ACRES: 5.620

Location

Parcel	3300600006100024
Owner	ZUBER CROSSING LLC
Address	0 N BECHTLE AVE SPRINGFIELD 45504
City / Township	SPRINGFIELD CORPORATION
School District	CLARK-SHAWNEE LSD

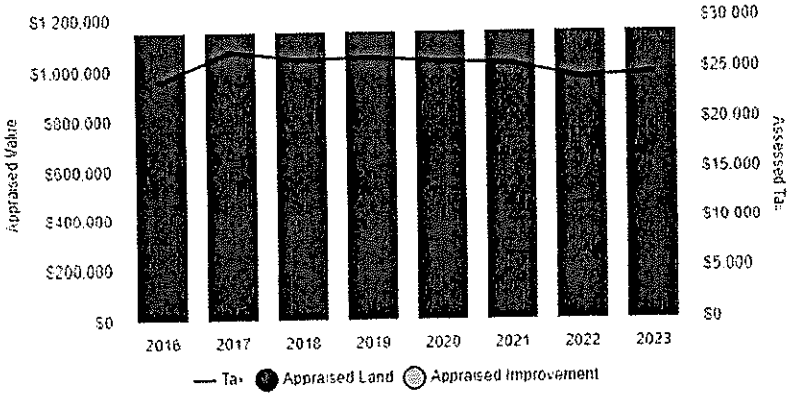
Tax Payer Address

Mailing Name	ZUBER CROSSING LLC
Mailing Address	10085 WELLINGTON BLVD
City, State, Zip	POWELL OH 43065

Valuation

	Appraised (100%)			Assessed (35%)		
Year	Land	Improvements	Total	Land	Improvements	Total
2023	$1,149,290.00	$0.00	$1,149,290.00	$402,250.00	$0.00	$402,250.00
2022	$1,149,290.00	$0.00	$1,149,290.00	$402,250.00	$0.00	$402,250.00
2021	$1,149,290.00	$0.00	$1,149,290.00	$402,250.00	$0.00	$402,250.00
2020	$1,149,290.00	$0.00	$1,149,290.00	$402,250.00	$0.00	$402,250.00
2019	$1,149,290.00	$0.00	$1,149,290.00	$402,250.00	$0.00	$402,250.00
2018	$1,149,290.00	$0.00	$1,149,290.00	$402,250.00	$0.00	$402,250.00

Historic Appraised (100%) Values



Legal

Legal Acres	5.620	Homestead Reduction	NO
Legal Description	PTS N W & N E QRS (Not to be used on legal documents)	Owner Occupied Reduction	NO
Land Use	(400) COMMERCIAL VACANT LAND	Neighborhood	340C6000
Section	06	Town	04
Range	09	Appraisal ID	
Card Count	0	Annual Tax	$24,631.68

Owners

Name	Ownership
ZUBER CROSSING LLC	100%

Residential

No Residential Records Found.

Permits

No Permit Records Found.

Agricultural

No Agricultural Records Found.

Commercial

No Commercial Records Found.

Improvements

No Improvement Records Found.

Sales

Date	Buyer	Seller	Conveyance Number (Book / Page)	Deed Type	Valid	Parcels In Sale	Amount
12/26/2018	ZUBER CROSSING LLC	NORTH BECHTLE SQUARE I INVESTMENTS LLC	4763 (/)	GW - GENERAL WARRANTY	- Unknown	0	$0.00
11/20/2015	NORTH BECHTLE SQUARE I INVESTMENTS LLC	NORTH BECHTLE SQUARE I INVESTMENTS LLC	4247 (/)	QC - QUIT CLAIM DEED	- Unknown	0	$0.00

Land

Land Type	Land Code	Frontage	Depth	Acres	Square Foot	Value
ACREAGE	PRIMARY SITE	0	0	4.120	179,467.00	$887,930.00
ACREAGE	UNDEVELOPED/RESIDUAL	0	0	1.500	65,340.00	$261,360.00
Totals				5.620	244,807	$1,149,290.00

Tax

2023 Payable 2024

	Delinquent	First Half	Second Half	Total
Gross Tax	$0.00	$14,308.05	$14,308.05	$28,616.10
Reduction		-$1,992.21	-$1,992.21	-$3,984.42
Effective Tax	$0.00	$12,315.84	$12,315.84	$24,631.68
Non-Business Credit		$0.00	$0.00	$0.00
Owner Occupancy Credit		$0.00	$0.00	$0.00
Homestead Reduction		$0.00	$0.00	$0.00
Net General	$0.00	$12,315.84	$12,315.84	$24,631.68
Special Assessments		$0.00	$0.00	$0.00
CAUV Recoupment		$0.00	$0.00	$0.00
Penalty And Adjustments	$0.00	$0.00	$0.00	$0.00
Taxes Billed	$0.00	$12,315.84	$12,315.84	$24,631.68
Payments Made	$0.00	-$12,315.84	-$12,315.84	-$24,631.68
Taxes Due	$0.00	$0.00	$0.00	$0.00

Yearly Tax Value Summary

Year	Effective Tax	Net General	Taxes Billed
2023	$24,631.68	$24,631.68	$24,631.68
2022	$24,261.86	$24,261.86	$24,261.86

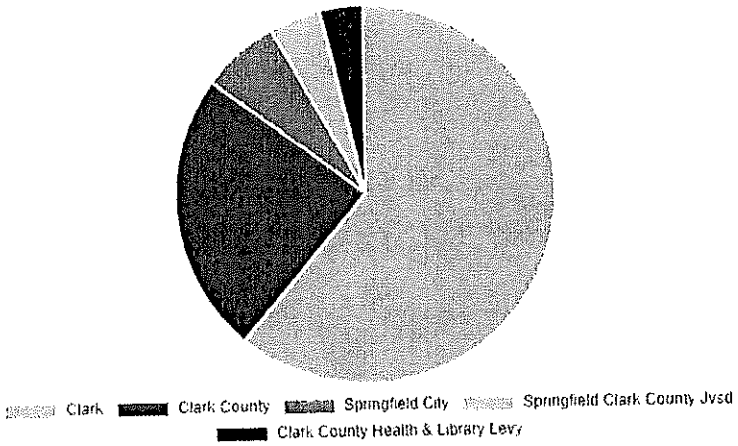
Year	Effective Tax	Net General	xes Billed
2021	$25,651.96	$25,651.96	$25,651.96
2020	$25,313.56	$25,313.56	$56,628.70
2019	$25,734.57	$25,734.57	$60,853.52
2018	$26,016.18	$26,016.18	$30,048.69
2017	$26,812.26	$26,812.26	$28,152.87
2016	$24,007.90	$24,007.90	$24,007.90

Tax Payments

Payment Date	Amount
2/7/2024	$24,631.68
2/13/2023	$24,261.86

Tax Distribution

2023

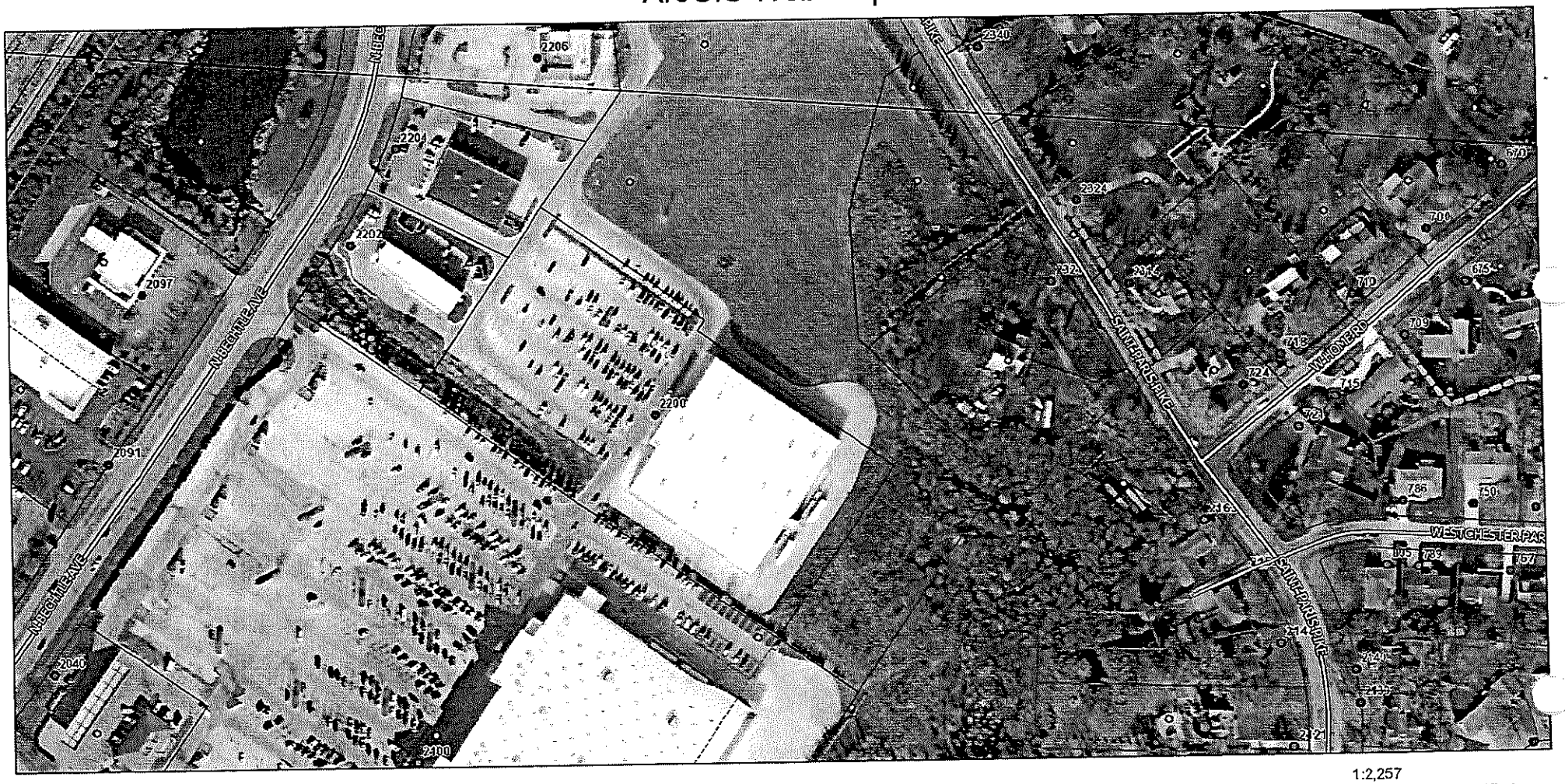


Tax Unit Name	Levy Name	Amount	Percentage
Clark	Clark-Shawnee Lsd	$15,095.35	61.28%
Clark County	Clark County	$5,898.31	23.95%
Clark County Health & Library Levy	Clark County Health & Library Levy	$910.51	3.70%
Springfield City	Springfield City	$1,637.61	6.65%
Springfield Clark County Jvsd	Springfield Clark County Jvsd	$1,089.90	4.42%
Totals		$24,631.68	100%

Special Assessments

No Special Assessment Records Found.

ArcGIS Web Map



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- Survey Search

Address Data

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Maxar, Microsoft

ArcGIS Web AppBuilder
Maxar, Microsoft | Clark County GIS Department |

Exhibit 2

3200200001000141

3/22/2024

CLARK COUNTY OHIO

Hillary Hamilton
County Auditor
Clark County, Ohio
clarkcountyauditor.org

Parcel	Address	Owner	Appraised
3200200001000141	2208 SAINT PARIS CONNECT...	ZUBER CROSSING LLC	$655,140.00
(400) COMMERCIAL VACANT L...	NORTHEASTERN LSD	SOLD: 12/26/2018 $0.00	ACRES: 1.510

Location

Parcel	3200200001000141
Owner	ZUBER CROSSING LLC
Address	2208 SAINT PARIS CONNECTOR SPRINGFIELD 45504
City / Township	SPRINGFIELD CORPORATION
School District	NORTHEASTERN LSD

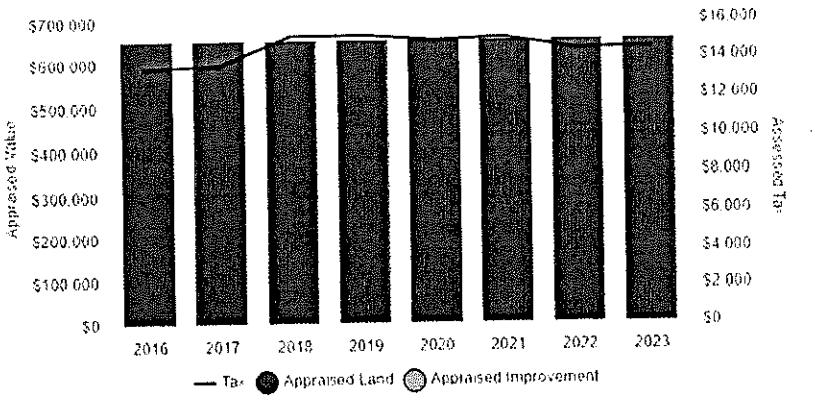
Tax Payer Address

Mailing Name	ZUBER CROSSING LLC
Mailing Address	10085 WELLINGTON BLVD
City, State, Zip	POWELL OH 43065

Valuation

	Appraised (100%)			Assessed (35%)		
Year	Land	Improvements	Total	Land	Improvements	Total
2023	$655,140.00	$0.00	$655,140.00	$229,300.00	$0.00	$229,300.00
2022	$655,140.00	$0.00	$655,140.00	$229,300.00	$0.00	$229,300.00
2021	$655,140.00	$0.00	$655,140.00	$229,300.00	$0.00	$229,300.00
2020	$655,140.00	$0.00	$655,140.00	$229,300.00	$0.00	$229,300.00
2019	$655,140.00	$0.00	$655,140.00	$229,300.00	$0.00	$229,300.00
2018	$655,140.00	$0.00	$655,140.00	$229,300.00	$0.00	$229,300.00

Historic Appraised (100%) Values



Legal

Legal Acres	1.510	Homestead Reduction	NO
Legal Description	S PT S W QR (Not to be used on legal documents)	Owner Occupied Reduction	NO
Land Use	(400) COMMERCIAL VACANT LAND	Neighborhood	340C6000
Section	01	Town	04
Range	10	Appraisal ID	
Card Count	0	Annual Tax	$14,558.88

Owners

Name	Ownership
ZUBER CROSSING LLC	100%

Residential

No Residential Records Found.

Permits

Date	Number	Purpose	Status	Amount
10/21/2016		C/I BLDG	C	$0.00

Agricultural

No Agricultural Records Found.

Commercial

No Commercial Records Found.

Improvements

No Improvement Records Found.

Sales

Date	Buyer	Seller	Conveyance Number (Book / Page)	Deed Type	Valid	Parcels In Sale	Amount
12/26/2018	ZUBER CROSSING LLC	NORTH BECHTLE SQUARE I INVESTMENTS LLC	4763 (/)	GW - GENERAL WARRANTY	- Unknown	0	$0.00

Date	Buyer	Seller	Conveyance Number (Book / Page)	Deed Type	Valid	Parcels In Sale	Amount
11/20/2015	NORTH BECHTLE SQUARE I INVESTMENTS LLC	NORTH BECHTLE SQUARE I INVESTMENTS LLC	4247 (/)	QC - QUIT CLAIM DEED	- Unknown	0	$0.00

Land

Land Type	Land Code	Frontage	Depth	Acres	Square Foot	Value
SQUARE FOOT	PRIMARY SITE	0	0	1.510	65,775.00	$655,140.00
Totals				1.510	65,775	$655,140.00

Tax

2023 Payable 2024

	Delinquent	First Half	Second Half	Total
Gross Tax	$0.00	$8,912.90	$8,912.90	$17,825.80
Reduction		-$1,633.46	-$1,633.46	-$3,266.92
Effective Tax	$0.00	$7,279.44	$7,279.44	$14,558.88
Non-Business Credit		$0.00	$0.00	$0.00
Owner Occupancy Credit		$0.00	$0.00	$0.00
Homestead Reduction		$0.00	$0.00	$0.00
Net General	$0.00	$7,279.44	$7,279.44	$14,558.88
Special Assessments		$0.00	$0.00	$0.00
CAUV Recoupment		$0.00	$0.00	$0.00
Penalty And Adjustments	$0.00	$0.00	$0.00	$0.00
Taxes Billed	$0.00	$7,279.44	$7,279.44	$14,558.88
Payments Made	$0.00	-$7,279.44	-$7,279.44	-$14,558.88
Taxes Due	$0.00	$0.00	$0.00	$0.00

Yearly Tax Value Summary

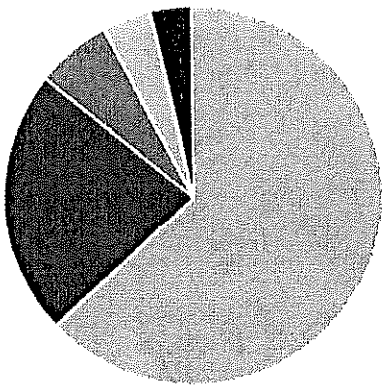
Year	Effective Tax	Net General	Taxes Billed
2023	$14,558.88	$14,558.88	$14,558.88
2022	$14,515.30	$14,515.30	$14,515.30
2021	$15,118.58	$15,118.58	$15,118.58
2020	$14,683.67	$14,683.67	$32,902.98
2019	$14,970.41	$14,970.41	$35,532.39
2018	$15,244.92	$15,244.92	$17,607.89
2017	$13,678.48	$13,678.48	$14,362.40
2016	$13,544.72	$13,544.72	$13,544.72

Tax Payments

Payment Date	Amount
2/7/2024	$14,558.88
2/13/2023	$14,515.30

Tax Distribution

2023



Tax Unit Name	Levy Name	Amount	Percentage
Clark County	Clark County	$3,321.75	22.82%
Clark County Health & Library Levy	Clark County Health & Library Levy	$512.78	3.52%
Northeastern Lsd	Northeastern Lsd	$9,188.30	63.11%
Springfield City	Springfield City	$922.25	6.33%
Springfield Clark County Jvsd	Springfield Clark County Jvsd	$613.80	4.22%
Totals		$14,558.88	100%

ArcGIS Web Map

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Survey Search

Address Data

Right

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ArcGIS Web AppBuilder

Maxar, Microsoft | Clark County GIS Department |

Article XII, Section 2a | Authority to classify real estate for taxation, two classes; procedures

Exh 3

Ohio Constitution / Article XII Finance and Taxation

Effective: *1980*

(A) Except as expressly authorized in this section, land and improvements thereon shall, in all other respects, be taxed as provided in section 36, Article II and Section 2 of this article.

(B) This section does not apply to any of the following:

(1) Taxes levied at whatever rate is required to produce a specified amount of tax money or an amount to pay debt charges;

(2) Taxes levied within the one per cent limitation imposed by section 2 of this article;

(3) Taxes provided for by the charter of a municipal corporation.

(C) Notwithstanding Section 2 of this article, laws may be passed that provide all of the following:

(1) Land and improvements thereon in each taxing district shall be placed into one of two classes solely for the purpose of separately reducing the taxes charged against all land andimprovements in each of the two classes as provided in division(C)(2) of this section. The classes shall be:

(a) Residential and agricultural land and improvements;

(b) All other land and improvements.

(2) With respect to each voted tax authorized to be levied by each taxing district, the amount of taxes imposed by such tax against all land and improvements thereon in each class shall be reduced in order that the amount charged for collection against all land and improvements in that class in the current year, exclusive of land and improvements not taxed by the district in both the preceding year and in the current year and those not taxed in that class in the preceding year, equals the amount charged for collection against such land and improvements in the preceding year.

(D) Laws may be passed to provide that the reductions made under this section in the amounts of taxes charged for the current expenses of cities, townships, school districts, counties, or other taxing districts are subject to the limitation that the sum of the amounts of all taxes charged for current expenses against the land and improvements thereon in each of the two classes of property subject to taxation in cities, townships, school districts, counties, or other types of taxing districts, shall not be less than a uniform per cent of the taxable value of the property in the districts to which the limitation applies. Different but uniform percentage limitations may be established for cities, townships, school districts, counties, and other types of taxing districts.

Exh. 41

Rule 5703-25-10 | Classification of real property and coding of records.

Ohio Administrative Code / 5703 / Chapter 5703-25 | Equalization - Appraisals

Effective: *October 3, 2016* ***Promulgated Under:*** *Other*

(A) As required by section 5713.041 of the Revised Code, the county auditor shall classify each parcel of taxable real property in the county into one of the two following classifications, which are:

(1) Residential and agricultural land and improvements;

(2) All other taxable land and improvements, including commercial, industrial, mineral and public utility land and improvements.

(B) Each separate parcel of real property with improvements shall be classified according to its principal and current use, and each vacant parcel of land shall be classified in accordance with its location and its highest and best probable legal use. In the case where a single parcel has multiple uses the principal use shall be the use to which the greatest percentage of the value of the parcel is devoted. The following definitions shall be used by the county auditor to determine the proper classification of each such parcel of real property:

(1) "Agricultural land and improvements" - The land and improvements to land used for agricultural purposes, including, but not limited to, general crop farming, dairying, animal and poultry husbandry, market and vegetable gardening, floriculture, nurseries, fruit and nut orchards, vineyards and forestry.

(2) "Mineral land and improvement" - Land, and the buildings and improvements thereon, used for mining coal and other minerals as well as the production of oil and

gas including the rights to mine and produce such minerals whether separated from the fee or not.

(3) "Industrial land and improvements" - The land and improvements to land used for manufacturing, processing, or refining foods and materials, and warehouses used in connection therewith.

(4) "Commercial land and improvements" - The land and improvements to land which are owned or occupied for general commercial and income producing purposes and where production of income is a factor to be considered in arriving at true value, including, but not limited to, apartment houses, hotels, motels, theaters, office buildings, warehouses, retail and wholesale stores, bank buildings, commercial garages, commercial parking lots, and shopping centers.

(5) "Residential land and improvements" - The land and improvements to the land used and occupied by one, two, or three families.

(C) Each property record of taxable real property shall be coded in accordance with the code groups provided for in this paragraph. Each property record of exempt property shall also be coded in accordance with the code groups for exempt property. The county auditor shall annually furnish to the tax commissioner an abstract of taxable values in which is set out in separate columns the aggregate taxable values of land and improvements in each taxing district for each of the major code groups provided for in this paragraph, and an abstract of exempt values in which is set out in separate columns the aggregate exempt values of land and improvements in each taxing district for each of the major exempt code groups provided for in this paragraph.

Major Use and Codes

Code No. Group	Use

100 to 199 Incl.	Taxable agricultural real property
200 to 299 Incl.	Taxable mineral lands and rights
300 to 399 Incl.	Taxable industrial real property
400 to 499 Incl.	Taxable commercial real property
500 to 599 Incl.	Taxable residential real property
600 to 699 Incl.	Exempt real property
700 to 799 Incl.	Special tax abatements for improvements
800 to 899	Public Utilities

The first digit identifies the major use and the last two digits the sub-use or group. Parcels, other than exempt property, that are vacant (no structures or improvements present) shall be coded 100, 200, 300, 400 or 500 depending on the respective class unless part of an existing unit. Certain numbers are left blank to provide for future expansion.

Use	
100	Agricultural vacant land
101	Cash - grain or general farm
102	Livestock farms other than dairy and poultry
103	Dairy farms
104	Poultry farms
105	Fruit and nut farms
106	Vegetable farms
107	Tobacco farms
108	Nurseries
109	Green houses, vegetables and floraculture

110	Agricultural vacant land "qualified for current agricultural use value"
111	Cash - grain or general farm "qualified for current agricultural use value"
112	Livestock farms other than dairy and poultry "qualified for current agricultural use value"
113	Dairy farms "qualified for current agricultural use value"
114	Poultry farms "qualified for current agricultural use value"
115	Fruit and nut farms "qualified for current agricultural use value"
116	Vegetable farms "qualified for current agricultural use value"
117	Tobacco farms "qualified for current agricultural use value"
120	Timber or forest lands not qualified for the Current Agricultural Use Value program pursuant to section 5713.31 of the Revised Code or the Forest Land Tax program pursuant to section 5713.23 of the Revised Code
121	Timber land taxed at its "current agricultural use value" as land used for the growth of noncommercial timber pursuant to section 5713.30(A)(1) of the Revised Code
122	Timber land taxed at its "current agricultural use value" as land used for the commercial growth of timber
123	Forest land qualified for and taxed under the Forest Land Tax program in compliance with the program requirements in place prior to November 7, 1994
124	Forest land qualified for and taxed under the Forest Land Tax program in compliance with the program requirements in place on or after November 7, 1994
190	Other agricultural use
199	Other agricultural use "qualified for current use value"
210	Coal lands - surface and rights
220	Coal rights - working interest
230	Coal rights - separate royalty interest

240	Oil and gas rights - working interest
250	Oil and gas rights - separate royalty interest
260	Other minerals
300	Industrial - vacant land
310	Food and drink processing plants and storage
320	Foundries and heavy manufacturing plants
330	Manufacturing and assembly, medium
340	Manufacturing and assembly, light
350	Industrial warehouses
360	Industrial truck terminals
370	Small shops (machine, tool & die, etc.)
380	Mines and quarries
390	Grain elevators
399	Other industrial structures
400	Commercial - vacant land
401	Apartments - 4 to 19 rental units
402	Apartments - 20 to 39 rental units
403	Apartments - 40 or more rental units
410	Motels and tourist cabins
411	Hotels
412	Nursing homes and private hospitals
415	Trailer or mobile home park
416	Commercial camp grounds
419	Other commercial housing

420	Small (under 10,000 sq. ft.) detached retail stores
421	Supermarkets
422	Discount stores and junior department stores
424	Full line department stores
425	Neighborhood shopping center
426	Community shopping center
427	Regional shopping center
429	Other retail structures
430	Restaurant, cafeteria and/or bar
435	Drive-in restaurant or food service facility
439	Other food service structures
440	Dry cleaning plants and laundries
441	Funeral homes
442	Medical clinics and offices
444	Full service banks
445	Savings and loans
447	Office buildings - 1 and 2 stories
448	Office buildings - 3 or more stories - walk up
449	Office buildings - 3 or more stories - elevator
450	Condominium office units
452	Automotive service station
453	Car washes
454	Automobile car sales and services
455	Commercial garages

456	Parking garage, structures and lots
460	Theaters
461	Drive-in theaters
462	Golf driving ranges and miniature golf courses
463	Golf courses
464	Bowling alleys
465	Lodge halls and amusement parks
480	Commercial warehouses
482	Commercial truck terminals
490	Marine service facilities
496	Marina (small boat)
499	Other commercial structures
500	Residential vacant land
510	Single family dwelling
520	Two family dwelling
530	Three family dwelling
550	Condominium residential unit
560	House trailers or mobile homes affixed to real estate
599	Other residential structures

In the residential coding the third or last digit indicates the size of tract used for residential property.

0	Platted Lot	
1	Unplatted	-0 to 9.99 acres

2	"	10 to 19.99 acres
3	"	20 to 29.99 acres
4	"	30 to 39.99 acres
5	"	40 or more acres

600	Exempt property owned by United States of America
610	Exempt property owned by state of Ohio
620	Exempt property owned by counties
630	Exempt property owned by townships
640	Exempt property owned by municipalities
645	Exempt property owned or acquired by metropolitan housing authorities
650	Exempt property owned by board of education
660	Exempt property owned by park districts (public)
670	Exempt property owned by colleges, academies (private)
680	Charitable exemptions - hospitals - homes for aged, etc.
685	Churches, etc., public worship
690	Graveyards, monuments, and cemeteries
700	Community urban redevelopment corporation tax abatements (R.C. 1728.10)
710	Community reinvestment area tax abatements
720	Municipal improvement tax abatements (R.C. 5709.41)
730	Municipal urban redevelopment tax abatements (R.C. 725.02)
740	Other tax abatements (R.C. 165.01 and 303.52)
800	Agricultural land and improvements owned by a public utility other than a railroad

810	Mineral land and improvements owned by a public utility other than a railroad
820	Industrial land and improvements owned by a public utility other than a railroad
830	Commercial land and improvements (including all residential property) owned by a public utility other than a railroad
840	Railroad real property used in operations
850	Railroad real property not used in operations
860	Railroad personal property used in operations
870	Railroad personal property not used in operations
880	Public Utility personal property other than rail-roads

(D) The coding system provided in this rule shall be effective for tax year 1985.

(E) Nothing contained in this rule however, shall cause the valuation of any parcel of real property to be other than its true value in money or be construed as an authorization for any parcel of real property in any class in any county to be valued for tax purposes at any other value than its "taxable value" as set out in rule 5703-25-05 of the Administrative Code.

Supplemental Information

Authorized By: 5703.05

Amplifies: 5713.041

Five Year Review Date: 10/3/2021

Prior Effective Dates: 12/28/1973, 11/1/1977, 10/20/1981, 9/14/1984 (Emer.), 12/11/1984, 9/18/2003, 12/15/2005

Exh 5

5713.041 Classifying property for purposes of tax reduction.

Each separate parcel of real property shall be classified by the county auditor according to its principal, current use. Vacant lots and tracts of land upon which there are no structures or improvements shall be classified in accordance with their location and their highest and best probable legal use. In the case of lands containing or producing minerals, the minerals or any rights to the minerals that are listed and taxed separately from such lands shall be separately classified if the lands are also used for agricultural purposes, whether or not the fee of the soil and the right to the minerals are owned by and assessed for taxation against the same person. For purposes of this section, lands and improvements thereon used for residential or agricultural purposes shall be classified as residential/agricultural real property, and all other lands and improvements thereon and minerals or rights to minerals shall be classified as nonresidential/agricultural real property. Each year the auditor shall reclassify each parcel of real property whose principal, current use has changed from the preceding year to a use appropriate to classification in the other class. Except as otherwise provided in division (B) of section 5709.40, division (B) of section 5709.41, division (A)(2) of section 5709.73, or division (D) of section 5709.77 of the Revised Code, the classification required by this section is solely for the purpose of making the reductions in taxes required by section 319.301 of the Revised Code, and this section shall not apply for purposes of classifying real property for any other purpose authorized or required by law or by rule of the tax commissioner.

The commissioner shall adopt rules governing the classification of property under this section, and no property shall be so classified except in accordance with such rules.

Amended by 129th General AssemblyFile No.141, HB 509, §1, eff. 9/28/2012.

Effective Date: 09-27-1983 .

Related Legislative Provision: *See 129th General AssemblyFile No.141, HB 509, §6 .*

Exh. 6

SLIP OPINION NO. 2011-OHIO-5448

MARALGATE, L.L.C., APPELLEE, *v.* GREENE COUNTY BOARD OF REVISION ET AL., APPELLANTS.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *Maralgate, L.L.C. v. Greene Cty. Bd. of Revision*, Slip Opinion No. 2011-Ohio-5448.]

Real property taxation—Valuation for current agricultural use—Transfer of part of property to related entity—Common ownership and contiguity of parcels—R.C. 5713.30(A)—Noncommercial timber.

(No. 2010-1769—Submitted October 18, 2011—Decided October 26, 2011.)

APPEAL from the Board of Tax Appeals, No. 2008-M-644.

Per Curiam.

{¶ 1} This is an appeal by the Greene County auditor and the Greene County Board of Revision ("BOR") from a decision of the Board of Tax Appeals ("BTA") that reversed the BOR and granted current-agricultural-use-valuation ("CAUV") status to a 70.959-acre parcel owned by Maralgate, L.L.C. The parcel was purchased by the Turner Family Partnership as part of a 749-acre farm in

March 2005. Apparently, the entire farm enjoyed CAUV status until the parcel was transferred from the family partnership to the Maralgate entity on July 28, 2006. Thereafter, the Greene County auditor denied the CAUV application for tax year 2007, and Maralgate filed a complaint with the BOR, which held a hearing and denied the application. Maralgate then filed an appeal to the BTA, which held a hearing of its own and issued a decision reversing the BOR and granting the CAUV status. The county has appealed.

{¶ 2} Central to all the county's arguments is its contention that because of the transfer of the one parcel from Turner Family Partnership to Maralgate, the tax status of that parcel had to be determined in isolation, without regard to the use of adjacent parcels still directly owned by the partnership. Because almost 60 percent of the parcel has trees that are not grown for commercial purposes, the most important consideration is whether the parcel is, for purposes of R.C. 5713.30(A)(1), under "common ownership" with the rest of the farm.

{¶ 3} We hold that the parcel was under common ownership with the rest of the farm. Guided by that central holding, we reject two additional arguments advanced by the county. First, contrary to the county's assertion, the phrase "growth of timber for a noncommercial purpose" in R.C. 5713.30(A)(1) does not require that the trees in question be grown as a crop. Second, the county is mistaken when it contends that Maralgate could receive the tax preference only for that portion of the parcel that was being actively cultivated; as a result, Maralgate did not have the burden to present a land survey showing how much of the parcel was devoted to different uses. Contrary to the county's argument, the case law requires such a survey only if there is a *commercial* use of part of a parcel that is not an agricultural use. In the present case, those portions of the parcel not actively cultivated were not used for any commercial purpose.

{¶ 4} Because we reject the arguments advanced by the appellants, we affirm the decision of the BTA.

I. Facts

{¶ 5} In March 2005, the Turner Family Partnership acquired a 749-acre farm consisting of more than one parcel in a single transaction. One component of that farm was the 70.959-acre parcel that is at issue. In July 2006, the partnership assigned that parcel to Maralgate L.L.C., in order to limit liability in case of a drowning in one of the quarry ponds on the property.

{¶ 6} Because of the change of ownership, the auditor declined to treat the parcel as part of the larger farm. Instead, she reviewed the application solely in light of the uses of the parcel itself. Pursuant to that review, the auditor and subsequently the BOR determined that the parcel did not qualify for CAUV treatment for 2007.

{¶ 7} Maralgate appealed to the BTA, which held a hearing on October 15, 2009. At that hearing, Maralgate offered the testimony of Albert J. Turner III, a principal and the general partner of the Turner Family Partnership.

{¶ 8} Turner testified that the partnership acquired the "Noble Farm," a 749-acre tract that included the property at issue, through auction in February 2005. In July 2006, the partnership transferred the parcel to Maralgate for liability reasons relating to the ponds. Maralgate is a single-member limited-liability company wholly owned by the Turner Family Partnership.

{¶ 9} Turner himself farmed the larger farm, including the parcel at issue, and testified that the cultivation involved the field crops soy beans and corn. Turner stated that there were about 20 acres of "agricultural land" on the parcel. But he amended that testimony to 19.7310 based on reviewing the property record card, which sets forth "tillable," "woodland," and "right of way" acreage. As for the portion of the parcel actually under cultivation, approximately 2.2 acres were farmed in the northwest corner of the parcel, and Turner's testimony indicated (with very little precision) that additional land in the eastern

and southeastern part of the parcel had been cleared and farmed. Turner additionally testified that the parcel generated at least $2,500 per year.

{¶ 10} The record does not contain Maralgate's 2007 CAUV application, but at the BOR hearing the auditor explained her grounds for denying the preferred tax status: "[Y]ou have to [actually farm] at least 25 percent [of the parcel] * * * and you are not meeting the 25 percent for farming purposes" as to the parcel. As for the integration of the parcel into the whole 749-acre farm, the auditor stated her position that "[e]ven though it's owned by the same family it's not the same name" and that as a result of the partnership having "transferred it into an LLC," the parcel's tax status must be determined in isolation from the remainder of the farm. The BOR denied Maralgate's complaint on the grounds of "no documentation provided and no proof of income."

{¶ 11} After Maralgate appealed to the BTA, the board held a hearing at which it reviewed an aerial photograph of the parcel and heard testimony of Turner. The BTA issued its decision on September 21, 2010. [1] The BTA first found that "the property, as a part of the larger farm, had been continuously farmed during the relevant time period." BTA No. 2008-M-644, at 6. Second, the BTA cited an earlier decision for the proposition that in R.C. 5713.30(A)'s reference to exclusive agricultural use, "exclusively" means "primarily."[2] In this

[1] At page 8 of its decision, the BTA notes that "the tillable land * * * comprises 19 acres," and on page 9 the BTA states that "[t]he 19-20 acres that have been and continue to be planted each year are also entitled to CAUV status." The county points out that land determined to be suited for agricultural use is not necessarily under actual cultivation. To the extent that there is any factual mistake on the BTA's part, however, it is inconsequential: the BTA predicated its decision on considering the parcel as part of the 749-acre farm, and the county does not claim that the agricultural use is insubstantial in relation to the entire farm.

[2] The county contends that the BTA erred by stating that exclusive use under R.C. 5713.30(A) means primary use. The county is correct to the extent that any *commercial* use of a portion of a parcel that is not agricultural will defeat the claimant's right to obtain CAUV status, at least as to that nonagricultural portion. But as discussed below, the BTA's decision does not fall into error, because the BTA correctly distinguished the incidental uses in this case as noncommercial, and found that they did not defeat the CAUV claim.

context, the BTA acknowledged the BOR's view that because "a single parcel of land may be divided into separate economic units, all or some of which may qualify for CAUV and others of which may not," the property owner should "specify the boundaries of the economic units." Id. at 7. But the BTA rejected the application of that doctrine in the present case on the grounds that the parcel "has not been divided into separate *economic* units," inasmuch as "[n]o income, other than farm income, devolves from any portion of the property." (Emphasis sic.) Id. The BTA determined that the wooded portion of the parcel enjoyed the preferred tax status because it was under common ownership with the surrounding Turner Family Partnership parcels pursuant to R.C. 5713.30(A)(1). Id. at 7-8. The BTA also found that the portion of the parcel that was being tilled should enjoy CAUV status and declined to require detachment of the other portions of the parcel. Id. at 8. Accordingly, the BTA reversed the BOR's denial of CAUV status and ordered that it be granted.

{¶ 12} The BOR and the auditor have appealed, and we now affirm.

II. Analysis

{¶ 13} By a 1973 amendment to the state constitution, Ohio voters authorized the General Assembly to depart from uniformity in valuing real property by permitting farms to be valued in accordance with their current agricultural use rather than their market value. Section 36, Article II, Ohio Constitution; 1973 House Joint Resolution 13, 135 Ohio Laws, Part I, 2043; see *Fife v. Greene Cty. Bd. of Revision*, 120 Ohio St.3d 442, 2008-Ohio-6786, 900 N.E.2d 177, ¶ 3. "Under the authorizing amendment and the implementing statutes, 'the auditor disregards the highest and best use of the property and values the property according to its current agricultural use,' a procedure that 'usually results in a lower valuation and a lower real property tax.' " Id., ¶ 4, quoting *Renner v. Tuscarawas Cty. Bd. of Revision* (1991), 59 Ohio St.3d 142, 572 N.E.2d 56.

{¶ 14} The implementing legislation is set forth at R.C. 5713.30 et seq. Central to the resolution of the case before us is the definition of "land devoted exclusively to agricultural use" at R.C. 5713.30(A). Division (A)(1) offers a definition applicable to "[t]racts, lots, or parcels totaling not less than ten acres," while division (A)(2) states a definition applicable to tracts of less than ten acres. Because we affirm the BTA's grant of CAUV status under division (A)(1), we do not reach and do not address the applicability of division (A)(2).

A. The parcel is under "common ownership" with the 749-acre Turner family farm because the family partnership owns Maralgate

{¶ 15} Under R.C. 5713.30(A)(1), "[t]racts, lots, or parcels of land" qualify for CAUV treatment to the extent that during the requisite period of time, they are "devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers." Additionally, the statute provides that tracts, lots, or parcels devoted exclusively to the "growth of timber for a noncommercial purpose" may qualify "if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use."[3] We hold that to the extent that it is wooded, the parcel qualifies for CAUV status under R.C. 5713.30(A)(1).

{¶ 16} Three uses of property described in division (A)(1) occurred on the parcel. First, field crops were cultivated on approximately three acres in the northwest corner of the parcel and an indeterminate portion in the south and east of the parcel. Second, a portion of the parcel is covered with ponds that are

[3] A stand of noncommercial timber may also qualify as part of a federal land retirement or conservation program, but that provision is not at issue here.

vestiges of earlier quarrying conducted on the parcel, while another portion is devoted to a landfill that the owner permits the county to use without charge.

{¶ 17} Third and most significantly, more than 40 of the 70 acres of the parcel were wooded, but the trees were not cultivated as a crop. Thus, the stand of trees covered some 57 percent of the parcel, and its presence raises the question whether the parcel constitutes land "contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use" for purposes of R.C. 5713.30(A)(1).

{¶ 18} The county contends that the parcel cannot be treated as part of the larger farm under R.C. 5713.30(A)(1) because Maralgate is not identical to the Turner Family Partnership, i.e., it is a different entity that owns the property. The county cites an administrative rule of the tax commissioner that defines "[t]racts, lots or parcels" as "all distinct portions or pieces of land (not necessarily contiguous) where the title is held by *one owner, as listed on the tax list and duplicate of the county*, which are actively farmed as a unit if together the total acreage meets the requirements of section 5713.30(A)(1) or (A)(2), of the Revised Code." (Emphasis added.) Ohio Adm.Code 5703-25-30(B)(25). That rule plainly contemplates an identity of owners. Contrary to the county's contention, however, the rule does not apply to the situation before us.

{¶ 19} As noted, the relevant statutory language is in R.C. 5713.30(A)(1): land devoted to "the growth of timber for a noncommercial purpose" may qualify for CAUV status if it is contiguous to and under common ownership with land that is otherwise devoted to agricultural use. The applicable statutory language is "common ownership," which connotes a wider scope than that contemplated by the administrative rule. Different corporate entities—such as Turner Family Partnership and Maralgate—are said to be under common ownership when they are parent and subsidiary, or when they each have the same members or shareholders. See, e.g., *Union Bldg. & Constr. Corp. v. Bowers* (1958), 110 Ohio

App. 81, 86-87, 12 O.O.2d 254, 158 N.E.2d 386 (fact of "common ownership" of the two parties to a transaction did not avoid sales-tax obligation where the sales-tax vendor was a wholly owned subsidiary of the sales-tax purchaser).

{¶ 20} The county argues that the tax commissioner's rule, which requires the same entity to be listed as owner of the different parcels, controls the scope of "common ownership" under R.C. 5713.30(A)(1). We disagree.[4]

{¶ 21} It is elemental that an administrative rule such as Ohio Adm.Code 5703-25-30 is " 'designed to accomplish the ends sought by the legislation enacted by the General Assembly,' " and an administrative rule " 'does not conflict with a statute to the extent that it provides a reasonable, supportable interpretation of it.' " *Rich's Dept. Stores, Inc. v. Levin*, 125 Ohio St.3d 15, 2010-Ohio-957, 925 N.E.2d 951, ¶ 17, quoting *Hoffman v. State Med. Bd. of Ohio*, 113 Ohio St.3d 376, 2007-Ohio-2201, 865 N.E.2d 1259, ¶ 17, and *Chicago Pacific Corp. v. Limbach* (1992), 65 Ohio St.3d 432, 435, 605 N.E.2d 8. Moreover, " 'an administrative rule that is issued pursuant to statutory authority has the force of law unless it is unreasonable or conflicts with a statute covering the same subject matter." *Nestle R&D Ctr., Inc. v. Levin*, 122 Ohio St.3d 22, 2009-Ohio-1929, 907 N.E.2d 714, ¶ 40, quoting *State ex rel. Celebrezze v. Natl. Lime & Stone Co.* (1994), 68 Ohio St.3d 377, 382, 627 N.E.2d 538.

{¶ 22} R.C. 5715.29 authorizes the tax commissioner to prescribe rules concerning "the exercise of the powers and the discharge of the duties" of the auditor in relation to "the assessment of property and the levy * * * of taxes." As R.C. 5713.31 acknowledges, this authority extends to prescribing rules for valuing land that has been determined to be "devoted exclusively to agricultural use."

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[4] We recognize that requiring parcels to be titled to the very same owner has the substantial advantage of making the common ownership immediately evident to the auditor. That consideration is not decisive, however, given that the board-of-revision proceedings pursuant to R.C. 5715.19 permit the introduction of evidence of common ownership where the owners are not identical.

Moreover, the authority by its terms encompasses the eligibility of land for CAUV. Thus, the administrative rules at issue fall generally within a grant of rulemaking authority to the commissioner.

{¶ 23} Nonetheless, we do not read Ohio Adm.Code 5703-25-30(B)(25) as imposing the same-owner limitation on the language of R.C. 5713.30(A)(1). The main reason is that the reference to "common ownership" was enacted into R.C. 5713.30(A)(1) many years after the administrative rule was promulgated. See *Castillo v. Jackson* (1992), 149 Ill.2d 165, 178, 594 N.E.2d 323 (attaching little interpretative significance to a Labor Department program letter because the letter was promulgated "well before" the passage of the relevant statute).

{¶ 24} Specifically, the text that is currently the tax commissioner's rule at Ohio Adm.Code 5703-25-30 was originally a BTA rule promulgated in 1973 that was codified in the Ohio Administrative Code on November 11, 1977, as a rule of the former commissioner of tax equalization at Ohio Adm.Code 5705-5-01. 1977 Ohio Monthly Record 3-652. Subsequently, the rules codified at Ohio Adm.Code Title 5705 were recodified as Chapter 5703-25, at which time the language became part of current Ohio Adm.Code 5703-25-30. 2003-2004 Ohio Monthly Record 784, 795.

{¶ 25} Meanwhile, the General Assembly amended R.C. 5713.30(A) twice in a manner pertinent to the issue before us. See *Dircksen v. Greene Cty. Bd. of Revision*, 109 Ohio St.3d 470, 2006-Ohio-2990, 849 N.E.2d 20, ¶ 16-21 (discussing history of R.C. 5713.30(A)). Originally, the statute listed timber among the agricultural products that, when cultivated for commercial purposes, could qualify land for the preferred tax treatment. Am.Sub.S.B. No. 423, 135 Ohio Laws, Part II, 341, 344. Effective March 1993, the legislature removed division (A)(1)'s reference to timber produced for commercial purposes and substituted a provision that qualified timber "whether or not it is produced for a commercial purpose." 1992 Sub.H.B. No. 95, 144 Ohio Laws, Part II, 2994,

3001. Later in 1993, the statute was amended again so as to read as it currently does—namely, land devoted to commercial timber production qualifies as well as land devoted to "growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use." 1993 Am.Sub.H.B. No. 281, 145 Ohio Laws, Part III, 5281. Thus, the reference to "common ownership" did not become part of the statute until almost 20 years after the original promulgation of the rule.

{¶ 26} Because the rule was promulgated long before the statutory language at issue was enacted, we do not view the rule as an administrative construction of that language. Moreover, a rule that would require the same entity to be the owner of two parcels is arguably inconsistent with the statutory requirement that land be under "common ownership," as already indicated. Simply put, the latter term indicates that once the information is in their possession, the taxing authorities should look behind the person or entity named on a deed to determine the ultimate ownership of two properties.

{¶ 27} For the foregoing reasons, we reject the county's contention that Ohio Adm.Code 5703-25-30(B)(25) forecloses consideration of the parcel in conjunction with the contiguous Turner family parcels.

B. R.C. 5713.30(A)(1) explicitly allows the tax preference for noncommercial timber based on contiguity and common ownership

{¶ 28} The county argues that noncommercial timber under R.C. 5713.30(A)(1) must still constitute a "crop" in order to qualify the wooded area of the parcel for the tax preference. We disagree. As already discussed, the history of R.C. 5713.30(A)(1)'s reference to timber demonstrates that the county is mistaken. See *Dircksen*, 109 Ohio St.3d 470, 2006-Ohio-2990, 849 N.E.2d 20, ¶ 20-21. Originally, the statute referred to timber produced "for commercial purposes." Next, the statute was amended to include timber whether or not grown

for a commercial purpose. Finally, the current language limited the tax break for noncommercial timber by requiring contiguity and common ownership.

{¶ 29} This sequence of amendments shows that the General Assembly intended to permit the tax break to apply to the wooded portions of a farm even if the timber in those areas was not harvested as a crop. The county's citation of *Rocky Fork Hunt & Country Club v. Testa* (1995), 100 Ohio App.3d 570, 654 N.E.2d 429, is unavailing. In that case the parties disputed whether the wooded portion of a parcel was devoted exclusively to agricultural use in 1992, *before the 1993 amendments* that permitted noncommercial timber to qualify for the tax preference. Thus the Tenth District's decision simply did not address the provision of law at issue here, because it was not in effect at the time at issue in that case.

C. Granting CAUV status is not unreasonable when a parcel is part of and under common ownership with a larger farm and has a sizeable wooded area but no commercial use other than agriculture

{¶ 30} Section 36, Article II of the Ohio Constitution authorizes the legislature to provide preferential tax treatment where land is "devoted exclusively to agricultural use." R.C. 5713.30(A) implements the constitutional authorization, setting forth when land is "devoted exclusively to agricultural use," and it does so by stating those agricultural uses that qualify for the tax preference.

{¶ 31} The county argues that the tax preference must be granted on an acre-by-acre basis and that the owner has the burden to demonstrate by land survey precisely which portions of any particular parcel are subject to agricultural use as defined. In support, the county cites *Renner*, 59 Ohio St.3d 142, 572 N.E.2d 56.

{¶ 32} In both *Renner* and the later case *Furbay v. Tuscarawas Cty. Bd. of Revision* (1991), 61 Ohio St.3d 64, 572 N.E.2d 660, land that had previously qualified for CAUV treatment was subject to a conversion, i.e., a loss of CAUV

status, pursuant to R.C. 5713.34. In each case, the owner had leased a portion of the parcel to another entity for mining. When called upon to render a recoupment of tax savings from earlier years, the owner in each case sought to reduce the amount of recoupment by arguing that only some, not all, of the land had been leased for a nonagricultural, commercial use.

{¶ 33} The court held that an owner may reduce the amount of recoupment by proving that a portion of the land continued to enjoy CAUV status. But the court placed the burden firmly on the owner to demonstrate, by land survey if necessary, the precise area devoted to agricultural and nonagricultural use. Absent such proof, the recoupment must equal the tax savings that relate to the entire parcel.

{¶ 34} In this case, the BTA correctly concluded that *Renner* and *Furbay* are not apposite. What was different in *Renner* and *Furbay* was the existence of a new *commercial* use of the property that was not agricultural. Simply put, *Renner* and *Furbay* underscore the proposition that when a portion of a parcel of real estate is used for a commercial purpose that is not agricultural, the parcel itself cannot be said to be "devoted exclusively to agricultural use." It follows that if an owner nonetheless desires to qualify some portion of the parcel that is still subject to the agricultural use, the owner must show precisely what acreage is agricultural and what acreage is subject to the other commercial use. But as the BTA stated, the doctrine of *Renner* and *Furbay* does not apply here, because there is no *commercial* use other than the agricultural. BTA No. 2008-M-644, at 7 (the noncommercial uses of the parcel did not involve "economic units" that had to be excluded from CAUV status).

{¶ 35} The county also points to an administrative rule of the tax commissioner to support its position. In particular, the rule requires that "[o]ne acre for each residence on a parcel shall be valued as a homesite in the same manner as similar homesites in the area *on a market value basis*." (Emphasis

added.) Ohio Adm.Code 5703-25-34(I). On the basis of this pronouncement the county infers that "[w]hat applies to a homesite would, of course, equally apply to a landfill or an abandoned quarry, none of which are used for an agricultural purpose." In other words, the county postulates that *any* acreage not directly farmed must be separated and subjected to market valuation, even if it has no separate commercial use.

{¶ 36} We disagree. The administrative rule expressly creates a one-acre carve-out for the farm home but remains silent on other uses incidental to agricultural use. Contrary to the county's reasoning, we construe the rule's silence on other uses—such as the vestigial quarry ponds and the county's permissive and noncommercial use of a corner of the parcel as a landfill—as *not* requiring a carve-out. The conditions are merely that such uses be purely incidental to the overall agricultural use and that they not be commercial in nature.

{¶ 37} In sum, the present case involves a 749-acre farm consisting of contiguous parcels and, with respect to the parcel at issue, only one commercial use—the growing of field crops, which is agricultural under R.C. 5713.30(A). As discussed, there are about 40 acres of noncommercial timber on the parcel, and they qualify for tax preference by virtue of their contiguity and common ownership with the farm. With regard to the entire 749-acre tract (that being the relevant unit), the county does not contend that agricultural use is insubstantial. All that remains is at most 27 acres of the quarry ponds along with the area that Maralgate allows the county to use, free of charge, as a landfill. This area constitutes a mere 3.6 percent of the area of the entire Turner farm, and nothing in the record suggests that its use is anything other than incidental to the farm as a whole.

{¶ 38} Under all these circumstances, we conclude that the BTA acted reasonably and lawfully when it granted CAUV status to the entire parcel. We therefore affirm the BTA's decision.

Conclusion

{¶ 39} For the reasons set forth, the decision of the BTA is reasonable and lawful. We therefore affirm it.

Decision affirmed.

O'CONNOR, C.J., and PFEIFER, LUNDBERG STRATTON, O'DONNELL, LANZINGER, CUPP, and MCGEE BROWN, JJ., concur.

Rogers & Greenberg, L.L.P., James G. Kordik, and David M. Pixley, for appellee.

James R. Gorry, for appellants.
