FILED
CLARK COUNTY AUDITOR

MAR 2 6 2026

HILLARY HAMILTON
AUDITOR

Clear Form

DTE 2
Rev. 12/22

Tax year 2025 BOR no. 2025-160

County Clark Date received 3/26/2026

# 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 Road, 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 | Manager-Member | |

**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 |
|---|---|---|
| 3300600006100024 | 5.62 Acres | 0 N Bechtle Springfield OH 45504 |
| | | |
| | | |
| | | |

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 5713.35.
- ☑ 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 |
|---|---|---|---|
| 3300600006100024 | $100,000 -Ag | $1,609,000 | -$1,509,000 |
| | | | |
| | | | |

10) The requested change is justified for the following reasons:
The Parcel was part of the residual after lot splits of a 26 Acre parcel which had a land use code of 100. The use of the land is actively"Agricultural" to wit: Hay fields baled at 2 times or more /year from 2019 through 2025: See Attached for more detail.

11) If the complainant is a legislative authority and the complaint is an original complaint with respect to property not owned by the complainant, R.C. 5715.19(A)(8) requires this section to be completed.

☐ The complainant has complied with the requirements of R.C. section 5715.19(A)(6)(b) and (7) and provided notice prior to the adoption of the resolution required by division (A)(6)(b) of that section as required by division (A)(7) of that section.

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 3/25/26 Complainant or agent _____ Signature Title (if agent) Manager

Sworn to and signed in my presence this 25 day of March year 2026

Notary _____ Signature

JEFF GILSON, NOTARY PUBLIC
STATE OF OHIO
EXP. JUNE 23,

# 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, or a tenant of the property owner, if the property is classified as to use for tax purposes as commercial or industrial, the lease requires the tenant to pay the entire amount of taxes charged against the property, and the lease allows, or the property owner otherwise authorizes, the tenant to file such a complaint with respect to the property. 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, 2026.

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 – 2025 have clearly been used for agricultural purposes. There have been no other commercial or other uses of the parcels.

The Auditor continues to **misclassify** Parcels 320060061000124 (5.62 acres); 320020001000141 (1.51acres) and now in 2025 Parcel 320020000l100002 (1.03 acres) which is also a residual parcel after a recent split from a larger 5 acre tract that has been continually farmed by Zuber from 2019 – 2025 and is a [art of the overall larger farm; In reviewing the County Auditor cards for these parcels for the CAUV valuation for which we applied we noticed that on the auditor card you classified these parcels at issue as **Land Use 400 Commercial**. Two of these 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, 2023, 2024 and now 2025. During 2025 we finally received a decision from the Ohio Board of Tax Appeals on this issue which in our opinion erroneously applied the law. We have currently worked through the court system and have ultimately appealed the case to the Ohio Supreme Court (Case 2026-0173). This case not only affects our case but to all persons and entities that farm next to a commercial or industrial center and we are optimistic the Supreme Court will take up this case. The Good news is that we will finally have an answer to the classification issue one way or another from the highest Court in Ohio, We would not have a problem in tabling this Board of Revisions hearing on the 2025 tax year

until we hear further from the Ohio Supreme Court since the issues remain the same to previous years argued.

**Exhibit 1** to this Complaint is a copy of Our Memorandum to the Ohio Supreme Court outlining the issues, including all exhibits.

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 2.** 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 farm agreement with someone for a longer term than 1 year and apply for the CAUV value on the commercial agricultural use of all parcels as Hayfields. The Lots in question have been farmed under a farm agreement since January 1, 2019 and have produced at least 2 cuttings of hay each year that have been sold for $2,500 or more each year. The fields were reseeded during 2021 and in 2025 and yields increased each year.

Although these 3 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 6-parcel (tract 21.58 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 3.** These tracts of land are all adjoining as follows:

1. Parcel 3200200001100002 1.03 Acres (Subject Appeal) Auditors Land Use Classification: 400 Commercial (Residual of acreage sold in 2023 and 2024 – Still Farmed as Hay as it has been since 2019).
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).

TOTALS 21.58 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 4.**

**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 5.**

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 floriculture
**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 32002000001000128 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 6.** 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 six (6) parcels for the 2023 and 2024 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 7 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 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. The only use of the parcels is used for growing hay.

Exhibit 8. Altair Realty v. Delaware County Board of Revisions.

The Board of Revision should also look at consider the recent Ohio Board of Tax Appeals decision on Altair Realty v. Delaware County Board of Revisions CASE NO(S). 2015-1489, 2015-1491 (Ohio Board of Tax Appeals -2016). In a similar case the Ohio Board of Tax Appeals sided with the landowner whose only use of the property was for agricultural purposes during the tax year even though the property was held for future commercial development.

The Board of Tax Appeals stated: R.C. 5713.30 provides an alternative value for land devoted exclusively to agricultural use based on its current agricultural use rather than market value. "Under the authorizing [constitutional] amendment and 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.' Renner v. Tuscarawas Cty. Bd. of Revision v. Greene Cty. Bd. of Revision (1991), 59 Ohio St.3d 142 ***." Fife , 120 Ohio St.3d 442, 2008-Ohio-6786.

Although this is a CAUV case it illustrates the Constitutional and Legislative authority that if the parcel is used for commercial agricultural purposes, the law mandates the Auditor must tax the property at its lower valuation use of Agriculture. The undersigned, as manager of a separate LLC, that also bales hay in Delaware Ohio, recently had a favorable ruling from the Delaware County Board of Revisions.

Respectfully Submitted,

Zuber Crossing, LLC

John A. Van Sickle, Manager

Exhibit 1

IN THE SUPREME COURT OF OHIO

| | | |
|---|---|---|
| ZUBER CROSSING, LLC, | : | Case No. 2025-CA-53 |
| Appellant, | : | Trial Court Case Nos. 2021-1144 and 2021-1145 |
| v. | : | |
| CLARK COUNTY BOARD OF REVISION, ET AL. | : | On Appeal From the Clark County Court of Appeals, Second Appellate District |
| Appellees. | : | |

# MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT ZUBER CROSSING, LLC

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THE COURT OF APPEALS ERRED IN FAILING TO CLASSIFY THE REAL ESTATE AT ISSUE ACCORDING TO ITS CURRENT ACTUAL USE AS VACANT AGRICULTURAL LAND UNDER O.R.C. § 5713.041 AND O.R.C. § 1.61 ..... 6

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## Table of Authorities

Cases:

*Board of Education of Mentor Exempted Village School District vs. The Board of Revision of Lake County*, 57 Ohio St. 2d 62 (1979) ..... 2

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## STATEMENT OF WHY THIS CASE PRESENTS QUESTIONS OF PUBLIC OR GREAT GENERAL INTEREST

This case presents a critical question of statutory interpretation under Ohio Revised Code §5713.041, that being whether parcels of real estate can be classified as "vacant commercial land" despite being actively used for agricultural purposes. This case presents a recurring and statewide significant question: whether a county auditor can disregard a parcels undisputed agricultural use and instead classify vacant land in such a way so as to elevate a parcels use for potential commercial development over its principal, current agricultural use, effectively nullifying the statutes first sentence of Ohio Revised Code § 5713.041 for thousands of Ohio "vacant" farmed acres that may be adjacent or near commercial or industrial urban areas. There is no question that this case requires this Court's review to ensure uniform, lawful property tax classifications for Ohio farmland, and to preserve the general assembly's policy choices for agricultural land.

This case concerns three (3) parcels of real estate in Clark County, each of which was actively farmed for the years in question for the purpose of growing hay, subject to a lease. The parcels principle, current use, was therefore agricultural. It is important to note that ORC Section 5713.041 is titled "Classifying Property for the Purposes of Tax Reduction." Pursuant to O.R.C. § 5713.041 "each separate parcel of real property shall be classified by the county auditor according to its principle, current use." The second sentence of the statute then states 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." However, the word "vacant" is not defined in the statute, and there is no explanation as to how that term should be construed in a situation where property is actively being farmed. Clearly, property being actively farmed should not be construed as "vacant" given the ordinary context of the word.

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Under the Second District Court of Appeals decision any Ohio agricultural property, without any structure or improvement on it can be classified based upon an auditor's speculative and unguided perception or view as to its highest and best probable legal use. However, such an interpretation completely erases the first sentence of O.R.C. § 5713.041 potentially subjecting any Ohio farm parcel without any physical improvement on it to crippling tax liability. The Court of Appeals should not be allowed to improperly elevate development potential over statutory text and current agricultural use, yet that is exactly what it does. By accepting review, this Court has the opportunity to clarify how the language of O.R.C. § 5713.041 can be harmonized where land is both "vacant" (without improved structures) yet being actively farmed. Allowing the Court of Appeals decision to stand will only embolden County Auditors to become overzealous in attempts to raise property tax revenue on lands that are actively farmed near urban areas despite the explicit directive of O.R.C. § 5713.041 to Classify Property For the Purpose of Tax Reduction.

The Court of Appeals decision here nullifies the statutes principal use command and discriminates against parcels which are "vacant" as opposed to parcels that may have any minimal structure erected upon them. The Court of Appeals erroneously attempted to bootstrap its argument in reference to Ohio Administrative Code § 5703-25-10 (B), but in so doing disregarded O.R.C. § 1.61 which defines agriculture as including "the production of field crops" and "pasturage" and "any combination of the foregoing . . . ." Additionally, crop production has been recognized by this court as constituting "agricultural use." *Board of Education of Mentor Exempted Village School District v. The Board of Revision of Lake County*, 57 Ohio St. 2d 62 (1979). To the extent Ohio Admin. Code § 5703-25-10 conflicts with O.R.C. § 1.61, Ohio Admin Code § 5703-25-10 is invalid. *Dalton G. Bixler 2016 Trust v. Tuscarawas County Board of Revision*, 2023-Ohio-2455, ¶¶ 17-18. The tragedy here is that by relying on an undefined

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application of the term "vacancy" the Court of Appeals creates a categorical rule that unimproved farmland can never be classified by its principle, current use. Such a holding is contrary to the intent of the legislature in the establishment of O.R.C. § 5713.041, and it's plain language. Allowing the Court of Appeals decision to stand would simply invite widespread reclassification of Ohio's unimproved agricultural parcels.

It also begs the question, if one parcel has a barn and the adjacent parcel which is part of the same farming operation used for crop production had no structures, does only the parcel with the barn qualify as agricultural classification based on its Present Current Use and would allow the Auditor to classify all other parcels without a vertical structure as "Vacant Commercial Land?" It is important to note that O.R.C. § 5713.041 requiring classification for purposes of tax reduction based on its Present Current Use (Agricultural) is separate from Ohio's Current Agricultural Use Valuation (CAUV) statutes. However if Ohio Auditor's are improperly classifying property as "Commercial" rather than "Agricultural" as required by O.R.C. §5713.041 and granting to some CAUV status, when the CAUV status terminates, the auditor will be collecting the recoupment of the prior four (4) years tax reductions under CAUV at the higher "Commercial" valuation rather than the Agricultural Classification as mandated by O.R.C. § 5713.041.

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## STATEMENT OF FACTS AND OF THE CASE

At all relevant times herein, Appellant, Zuber Crossing, LLC was the owner of the unimproved parcels of real estate -141, -021, and -024. Parcel -024 is located in the Northeastern Local School District and parcels -021 and -141 are located in the Clark-Shawnee Local School District. The parcels were originally a part of a 26-acre parcel. (BTA Tr. at 14:17:23). In 2015, three of the parcels were sold and the three parcels at issue were left as residual. Id.

Since acquiring the parcels in 2018, Appellant has used them exclusively for farming purposes. (Id., at 8:8-13, 16:24, 17:23-24). Specifically, Appellant grows, harvests, and bales hay on all three parcels. (Id., at 16:24, 17:23-24). True and accurate photographs of the parcels being farmed were introduced before the BTA as Exhibits 13A, 13C, 13D, 13E, 13F, 13G, 13H, and 13I. Appellant also stores a haybine, a rake, and a hay baler on one of the parcels (Id., at 17:18:2-7). The parcels are not, and have not, been used for commercial purposes by Appellant. (Id., at 33:19-25).

On or about January 1, 2019, Appellant entered into a Farm Lease Agreement with John Van Sickle. (Id., at 21:10-15). A true and accurate copy of the Farm Lease was introduced as Exhibit 12. Said Farm Lease is still in effect to this day. (BTA Tr. at 21:18-19). Since entering into the Farm Lease, the parcels have been expressly used for agricultural purposes. (Id., at 35:1-6).

In 2019, Appellant discovered that the at-issue parcels were classified by the Auditor as "commercial vacant land." In 2020, Zuber initiated complaints to the BOR that the parcels were misclassified under O.R.C. § 5713.041 and that they should have been classified as "agricultural". The BOR voted not to change the classification of the parcels on the basis that the parcels were "located in a business cluster location." A true and accurate copy of the BOR decisions are in the Transcript as Exhibit 4 at ¶ 8. The BOR did not provide a legal citation or definition for "business cluster" used in its decisions, nor is the phrase defined in any of the operative code sections.

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Appellant appealed the decision to the BTA. The BTA affirmed the BOR's decision relying upon the fact that while this case was ongoing, parcel -021 was sold for commercial development. (BTA Decision, p. 6).

Most notably, neither the BOR or the BTA addressed the "principal, current use" of the at-issue parcels as required pursuant to R.C. § 5713.041. Instead, both improperly relied upon outside factors. As a result, Appellant brings the present appeal to correct the errors of the BOR and the BTA which were affirmed by the Second District Court of Appeals which failed to follow the plain language of O.R.C. § 5713.041 and O.R.C. § 1.61.

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## ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

I. PROPOSITION OF LAW:

THE COURT OF APPEALS ERRED IN FAILING TO CLASSIFY THE REAL ESTATE AT ISSUE ACCORDING TO ITS CURRENT ACTUAL USE AS VACANT AGRICULTURAL LAND UNDER O.R.C. § 5713.041 AND O.R.C. § 1.61.

It is undisputed that the parcels at issue shall be grouped into only two (2) classes for tax classification purposes: (A) residential and agricultural land and improvements; and (B) all other land and improvements. See Ohio Constitution, Article XII, Section 2(C). In fact, Article XII, Section 2(C)(1) expressly states the purpose of having the two real estate tax classification to wit: "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 ...." Ohio Constitution, Article XII, Section 2(C)(1) (Emphasis added). This provision of the Ohio Constitution implicitly looks to the use of the property for classification purposes in order to reduce the tax burden on landowners. The Tax Commissioner is afforded the authority to implement this section under the guidelines set forth in O.R.C. § 5713.041. The Court of Appeals correctly acknowledged this at ¶¶ 17 & 18 of its decision.

Following the directive of the Ohio Constitution Article XII, Section 2(C) to reduce the tax burdens on landowners the Ohio legislature in 1983 adopted O.R.C. § 5713.041, which expressly provides that "[e]ach separate parcel of real property shall be classified by the county auditor according to its *principal, current use*." (Emphasis added). The evidence in this case clearly establishes that the principal, current use of the parcels is agricultural (BTA Tr. at p. 13). Neither the Northeastern Local School District Board of Education or the Board of Education of the Clark-Shawnee Local Schools presented any testimony to refute that the principal, current use of the

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property is for agricultural purposes. This alone should have required the Auditor to classify the parcels as "agricultural."

In general, "Courts, in the interpretation of the statute, may not take, strike, or read anything out of a statute, or delete, subtract, or omit anything therefrom. To the contrary, it is a cardinal rule of statutory construction that significance and effect should if possible be accorded every word, phrase, sentence and part of an act. *Wachendorf v. Shaver*, 149 Ohio St. 231, 237 (1948). Indeed, this rule of construction was thought to be so obvious that the Wachendorf Court continued "these rules of construction are of such general application that citing of specific cases is unnecessary." Id.

Despite that rule of construction; the Court of Appeals lost its way in the first sentence of O.R.C. § 5713.041. The first sentence of the statute would require classification of the parcels at issue as vacant agricultural land. The court erroneously looked at Ohio Admin. Code § 5703-25-10 as an extension of O.R.C. § 5713.041 and lost its way between the options of classification as code "100 agricultural vacant land" or code "400 commercial- vacant land." Court of Appeals decision at ¶ 22. Although "vacant" was undefined, "agricultural land is, in O.R.C. § 1.61. Pursuant to O.R.C. § 1.61 "agriculture" includes "farming ... the production of field crops ... pasturage" and "any combination of the foregoing ... ." And to avoid all doubt, *Dalton G. Bixler 2016 Trust v. Tuscarawas County Board of Revision*, 2023-Ohio-2455, removed all doubt in holding that O.R.C. § 1.61 invalidated Ohio Admin. Code § 5703-25-10 to the extent of any conflict in determining what constitutes agricultural use. *Dalton G. Bixler 2016 Trust, supra* at ¶¶ 17-18.

The Court of Appeals failure to understand the appropriate definition and appreciation of the principle current use of the property led the Court of Appeals to disregard the first sentence of O.R.C. § 5713.041 and instead focused on the second sentence of the statute which states "[v]acant

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." O.R.C. § 5713.041 does not define "vacant" however, Black's Law Dictionary defines "vacant" as "empty; unoccupied; ... deprived of contents; without inanimate objects. It implies entire abandonment, non-occupancy for any purpose." Black's Law Dictionary, Sixth Ed., citing *Foley v. Sonoma County Farmers Mutual Fire Insurance Co. of Sonoma*, Cal. at 108P.2d 939, 942.

Here, it is irrefutable that the parcels in question were not vacant as they were being used for the specific purpose of growing and harvesting hay. The mere fact that there is no structure or improvement on the land does not automatically equate to the properties as being vacant. Because the parcels in question were being used specifically for agricultural purposes and were not vacant during the relevant time period, the remainder of O.R.C. § 5713.041 was never implicated.

Using the Appellees argument that the that land was "vacant" because there was no building or improvement structure would lead to completely absurd and surely unintended results such that any farmer near a commercial or industrial center, whose principal current use was agriculture would only get the benefit of classification as agriculture under the provision if they had, or built, a building or structure on the parcel. For example, if Appellant had constructed a pole building for storage of its farm equipment on one of the parcels, Clark County argues that only then would the first sentence classifying the land according to its principal current use be triggered because the second sentence would no longer apply. Under Appellees position, any farmland without a building or structure adjoining a commercial or industrial area could be taxed higher under the highest and best use theory of Clark County. This is completely contrary to the statute and purpose of the Ohio Constitution XII Section 2(C)(1) in "**reducing the taxes**" and of the stated purpose of O.R.C. § 5713.041 of "**Classifying property for the Purpose of Tax Reduction**" by proper classification based on its present current use and would otherwise

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accelerate urban encroachment upon farmland that is adjacent or within an urban commercial or industrial area.

In O.R.C. § 5713.041 the second sentence "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 use" would make no sense if the term "vacant" within the context of the statute meant "no structures or improvements". Why would the legislature have a sentence that stated a redundancy? How can land be defined as agricultural in O.R.C. § 1.61 by reference to a wide variety of activities, none of which specifically require "improvements" be converted out of its prescribed agricultural definition?

The only construction that makes logical sense is that property is to be classified by its use, and vacant lots, which are unused, may be classified by their potential use. Otherwise, this Court would be rewriting the plain and unambiguous language of the statute, and that is not permitted. *Pelletier v. Campbell*, 153 Ohio St. 3d 611, 2018-Ohio-2121 at ¶ 20.

The error in the BTA's decision was compounded by multiple factual and legal misstatements and what was apparently a conscious decision to refuse to review the record in this case. First, the BTA purportedly relied upon evidence that the parcels were "surrounded" by commercial development. However, there was no such evidence that the parcels were surrounded by commercial development. In fact, the testimony of John Van Sickle was rather specific on these points. Mr. Van Sickle testified that the property was originally classified as residential in 2015, and since that time has always been agricultural. (BTA Tr. at pp. 17-18). He was also asked what the use of the entire parcel was from 2015, and he answered, "it was basically a hay field, part of that." Trans. at p. 19. Further, he was asked, "has the purpose or use of any of the parcels that we're talking about here today changed at all since 2015?" His answer "no." Id. This testimony directly contradicts the Board of Tax Appeals decision which claimed, "Van Sickle did not know

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if the property was farmed before 2019, and Zuber presented no evidence proving that it was." Admittedly, it is somewhat surprising that a board of three (3) members, none of whom presided over the hearing (Examiner Jay Wampler presided), could so overlook this, had the transcript been impartially reviewed.

However, given the board's next error, perhaps that is less surprising. The Board also claimed that it relied in part on a December of 2021 sale of one of the properties, also stating its decision that there was no objection to that evidence, which is false. In fact, this may be one of the Board's most egregious errors. The case on appeal is a 2021 Board of Tax Appeal filed in regards to a 2020 Board of Revision case. See Exhibits 4 & 8. Board of Revision challenges, pursuant to O.R.C. § 5715.19, are filed between January and March 31st of the year following the tax year in question. Thus, a sale in December of 2021 is two (2) tax years removed from the issue before the Board, which was to determine the "principal, current use." O.R.C. § 5713.041.

The Board of Tax Appeals decision curiously and erroneously seems to place some significance on the 2021 sale of a lot that had been farmed during the tax year in question, and which wasn't subject to this appeal, and the conveyance fee statement, noting that the conveyance fee statement on line 5 stated "if land is vacant, what is its intended use?" In response the form was filled out to indicate "Commercial development". See Ex. C and FR. at p. 43. However, the Conveyance Fee Statement is submitted by the Grantee, not Zuber, and the intended use refers to the future, not the "current" use in 2019.

The hearing examiner (who did not participate in the decision) had clearly noted Zuber's objection for the record both at pages 40, 41, and 42. Indeed, opposing counsel's purported basis for admitting the conveyance fee statement was that the property was "probably," being marketed for commercial use before its sale. However, there was never any evidence that was introduced that the property was marketed commercially, and the assertion is blatant speculation. Regardless,

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this was squarely addressed in Mr. Van Sickle's recross, when he stated that at the time this action was filed, there were no conversations to sell any of the properties, and he was under no listing agreements since July 1st of 2020. Id. at 67. The Board of Tax Appeals had no basis to look to a sale two (2) years post facto to try and determine the principal, current use of property in 2019. In fact, that was mere conjecture. The test is not what the owner intends to do with the property in the future but specifically what is the "present current use" as required by O.R.C. § 5713.041.

The decision of the Ohio Board of Tax Appeals in *Altair Realty, Ltd. v. Delaware County Board of Revisions* (Case No's. 2015-1489 and 2015-1491), copy attached in the Appendix, supports Appellant's position. Although *Altair Realty* involved a current agricultural use value question ("CAUV"), the board's logical approach to the issue before it is relevant here. The question before the board was whether certain parcels qualified for the CAUV status based upon their use. The board took testimony from representatives for *Altair Realty, Ltd.* and the City of Westerville and understood that the property was purchased for economic development and would not be farmed indefinitely. Nonetheless, the board succinctly noted that, despite that "while we concede that the land was apparently purchased for future economic development, there is no indication from this record that any development had begun prior to the end of May 2014, which is the relevant time frame for the determination of the property's CAUV status for tax year 2014." Id. at p. 3.

O.R.C. § 5713.041 states "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 non-residential agricultural real property." Here, the evidence was unrefuted that the land is being used for agricultural purposes. Neither the Northeastern Local School District Board of Education or the Board of Education of the Clark-Shawnee Local Schools presented any

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testimony to refute the farming lease, the photographs depicting the parcels being used for farming, or challenged the yield of hay being harvested and baled on the parcels.

O.R.C. § 5713.041 goes on to require the Auditor, each year, to classify each parcel of real property whose principal current use ***has changed from the preceding year***. As discussed above, the principal use of the parcels has remained consistent since Appellant acquired them in 2018. TR. at p. 35. Accordingly, the parcels should remain classified as agricultural land pursuant to Ohio Administrative Code 5703-25-10(A)(1) which states that parcels shall be classified as either "residential and agricultural land and improvements" or "all other taxable land and improvements."

The Court of Appeals erred in referencing Ohio Admin. Code § 5703-25-10 (B) not only for the reasons pointed out *supra*, but because the statute, which states "Each separate parcel of real property with improvements (emphasis added), shall be classified in accordance with its principal current use and each vacant parcel of land shall be classified in accordance with its location and its highest and best probable use." The addition of the language "with improvements" in the administrative code is inconsistent with the legislative directive of O.R.C. § 5713.041 that makes no distinction of the of whether the principal current use of a parcel does or does not have improvements. O.A.C. 5703-25-10(B)(1) expressly defines "agricultural land and improvements" as "the land and improvements to land use for agricultural purposes, including but not limited to, general crop farming ... ." The act of growing and harvesting hay clearly falls within this definition.

Further, Ohio Admin. Code § 5703-25-10(B) should not have served as a source of confusion, or support for the court's rationale. The fact remains that once the property is correctly defined as agricultural, the definition of § 5703-25-10(B) becomes irrelevant as they cannot

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contradict the statute. The Court of Appeals, like the Board of Tax Appeals before it failed to make this distinction.

Ohio Admin. Code 5703-25-10 however does support the foregoing argument when the Court looks at how it defines "commercial land and improvements" as defined in the O.A.C. 5703-25-10. To fall under that classification, it must be shown that "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, theatres, office buildings, warehouses, retail wholesale stores, bank buildings, commercial garages, commercial parking lots and shopping centers." It goes without saying that Appellees introduced absolutely no evidence that any of those such uses existed on any of the parcels in question, and in fact, the evidence was unrefuted from the testimony of John Van Sickle in response to counsel's question about whether the production of income was an important factor in the holding of these properties, and his response was that "there is no value coming in from commercial or use of the property." (BTA Tr. at pp. 33-34). The evidence there clearly established the parcels could not be "commercial land and improvements."

The evidence in the record establishes that the parcels at issue here are actively being used for an agricultural purpose. Thus, the parcels satisfy the requirements for the classification of agricultural land and improvements. Further, the record is devoid of any evidence to suggest that the parcels are being used as commercial land or they said parcels are vacant (not being used). Indeed, the property cannot legally be defined as vacant due to active farming activities. Accordingly, the BTA's decision must be reversed.

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## CONCLUSION

For the foregoing reasons, this case involves matters of public or great general interest and affects any and all lands actively being farmed adjacent or near commercial or industrial urban areas. This Court should therefore accept this discretionary appeal and accept jurisdiction.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the following by e-mail this 11th day of February, 2026.

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IN THE SUPREME COURT OF OHIO

| | | |
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| ZUBER CROSSING, LLC, | : | Case No. 2025-CA-53 |
| Appellant, | : | Trial Court Case Nos. 2021-1144 and 2021-1145 |
| v. | : | |
| CLARK COUNTY BOARD OF REVISION, ET AL. | : | On Appeal From the Clark County Court of Appeals, Second Appellate District |
| Appellees. | : | |

APPENDIX TO

MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT ZUBER CROSSING, LLC

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OHIO BOARD OF TAX APPEALS

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|---|---|---|
| ZUBER CROSSING, LLC, (et al.), | ) | |
| | ) | |
| Appellant(s), | ) | CASE NO(S). 2021-1144, 2021-1145 |
| | ) | |
| vs. | ) | |
| | ) | (REAL PROPERTY TAX) |
| CLARK COUNTY BOARD OF REVISION, (et al.), | ) | DECISION AND ORDER |
| | ) | |
| Appellee(s). | ) | |

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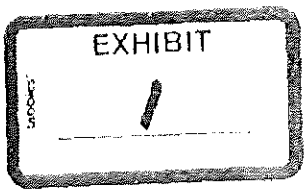
Entered Tuesday, July 1, 2025

Ms. Clements, Ms. Allison, and Mr. Seitz concur

Zuber Crossing, LLC ("Zuber") appeals the decisions of the Clark County Board of Revision ("BOR"), which maintained the classification of parcels 320-02-00001-000-141



("-141"), 330-06-00006-100-021 ("-021"), and 330-06-00006-100-024 ("-024") as vacant commercial land for tax year 2020. This matter is now considered upon the notice of appeal, the statutory transcript, the record of this Board's hearing, and any written arguments.

## BACKGROUND

Three parcels belonging to Zuber are at issue in this appeal. Parcel number -024 is located in the Northeastern Local School District, and the other two parcels are located in the Clark-Shawnee Local School District. Parcel -024 is 5.62 acres, -141 is 1.51 acres, and -021 is 1.16 acres. These parcels were part of what was originally a 26-acre parcel. In 2015, three parcels were carved out of the 26-acre parcel and sold for the development of stores, including a Hobby Lobby, IHOP, and a dollar store. H.R. at 14. The three parcels at issue were left as residual.

## PROCEDURAL HISTORY

The parcels were classified as commercial vacant land by the Auditor. Zuber filed complaints with the BOR, contesting the classification of the property under R.C. 5713.041. Zuber argued that the use of the land is agricultural and requested that the value of the parcels be changed to $26,425 (-141), $20,300 (-021), and $98,350 (-024). Zuber submitted multiple documents with the complaints, including a written argument, an administrative code printout, a lease agreement, and correspondence from 2019 between Zuber and the Auditor concerning the denial of the parcels' CAUV status. The Northeastern Local School District Board of Education ("Northeastern BOE") filed a countercomplaint, requesting that the Auditor's value of parcel -141 be maintained. The Board of Education of the Clark-Shawnee Local Schools ("Clark-Shawnee BOE") filed a countercomplaint, requesting that the value of parcels -021 and -024 be maintained.

John Van Sickle and John Vlahos, members of Zuber, appeared on behalf of Zuber at the BOR hearing. Van Sickle argued that the land was used for farming, specifically growing hay. The

Clark-Shawnee BOE and Northeastern BOE also appeared at the hearing. The BOR issued decisions to maintain the classification of the parcels as vacant commercial land. The decisions each stated:

> Your appeal to the Clark County Board of Revision requesting that your property classification of property under RC 5713.041 be reviewed has been completed. After reviewing your appeal and evidence, the Board of Revision has voted not to change the classification of the property to vacant agricultural land; the decision is the parcel is vacant commercial land. According to RC 5713.041, '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.'

Each decision further stated that the parcels were located in a business cluster location. Zuber appealed.

At the hearing before this Board, Zuber argued that the property was being used as a hay field. Van Sickle, who had previously appeared at the BOR hearing, appeared as a witness for Zuber. He testified he farmed the land as a tenant of the property. H.R. at 59. Van Sickle asserted he cut the grass at least twice a year. H.R. at 58. He asserted that Zuber purchased the property at issue on December 25, 2018, and it had been farmed pursuant to the leasing agreement since 2019. H.R. at 60 and 69. Zuber submitted multiple exhibits, including a tax bill, plat map, BOR decision, printouts from the Auditor's website, property record card, selections from the Ohio Revised Code and Ohio Administrative Code, the farm lease in place, and photographs of the subject.

Northeastern BOE argued that pursuant to R.C. 5713.041, the land should be classified according to its highest and best use, which was commercial development. Northeastern BOE argued the subject property was a commercial piece of land that was temporarily being used for cutting grass. The BOEs asserted that parcel -021 had been sold for development in 2021. The

Clark-Shawnee BOE submitted exhibits, including maps, property record card, conveyance fee statement, and deed regarding the sale of parcel -021 on December 20, 2021. The BOR argued that their classification decision was correct, and pursuant to R.C. 5713.041, vacant tracts of land shall be classified in accordance with their location and highest and best use, which in this case was commercial.

The parties submitted briefs, which further developed their arguments. The parties disagreed on the issue of how to apply R.C. 5713.041 to this case. The pertinent section states:

> 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.

Zuber argued that the principal current use of the property was growing and baling hay. Zuber argued that the BOR had ignored the purpose of R.C. 5713.041 and the first sentence of the code section and had instead incorrectly focused on whether the three parcels had any structures or

improvements. Zuber argued the word "vacant," as used in R.C. 5713.041, meant land that was unused by the owner.

Northeastern BOE argued that the three parcels at issue were located in the largest commercial development in the county, and the Auditor had properly complied with Adm.Code 5703-25-10 in identifying the highest and best probable legal use of the property as commercial. The Northeastern BOE asserted that the sale of parcel -021 for $550,000 demonstrated the highest and best use of the parcels was commercial. The Clark-Shawnee BOE argued that pursuant to R.C. 5713.041, the subject property was vacant land and, therefore, must be classified based on its location and highest and best use. The Clark-Shawnee BOE asserted that the highest and best use of the property was commercial because the property was surrounded by commercial development, and one of the parcels was even sold for commercial development in 2021.

## LEGAL ANALYSIS

We now address the issue at hand: the challenge to the classification of the property. Pursuant to R.C. 5715.19, a complainant may challenge any classification made under R.C. 5713.041. Under R.C. 5713.041, "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." R.C. 5713.041 also delineates two classifications: residential/agricultural and nonresidential/agricultural (or all other land and improvements). If a person with standing disagrees with the current classification set by the Auditor, the person may file a complaint.

We find that the BOR correctly maintained the land classification. The evidence before us shows that the three parcels are small pieces of what was once a large piece of land. In 2015, three pieces of the large original parcel of land were carved out and sold for the commercial development of a Hobby Lobby, IHOP, and a dollar store. Despite this evidence showing the

encroaching commercial activity, Zuber argued that the land was used for farming. Zuber presented evidence in furtherance of its argument in the form of the testimony of Van Sickle, a member and lessee of the property who cut hay on the properties pursuant to a lease agreement that began in 2019. However, Van Sickle did not know if the property was farmed before 2019, and Zuber presented no evidence proving that it was. H.R. at 61.

Furthermore, parcel -021 was sold for commercial development on December 20, 2021, after this case began. The Northeastern BOE submitted the conveyance fee statement and deed reflecting the $550,000 sale. Line 5 of the conveyance fee statement indicates there were no buildings on the land. Line 5 stated, "if land is vacant, what is intended use?" In response, the form was filled out to indicate "commercial development." No party contested the sale or disagreed that the sale was for commercial development. It was uncontroverted that no structures existed on the property. We determine the subject property's highest and best use is commercial development, based on the parcels' history, the sale of parcel -021 for commercial development, and the parcels' proximity to other commercial development.

Therefore, we affirm the BOR's decision to maintain the classification of the three parcels as vacant commercial land.

| BOARD OF TAX APPEALS | | |
|---|---|---|
| RESULT OF VOTE | YES | NO |
| Ms. Clements | | |
| Ms. Allison | KZR | |
| Mr. Seitz | | |

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.

Kathleen M. Crowley, Board Secretary

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CLARK COUNTY

| | | |
|---|---|---|
| ZUBER CROSSING, LLC<br><br>Appellant<br><br>v.<br><br>CLARK COUNTY BOARD OF REVISION, ET AL.<br><br>Appellees | : | C.A. No. 2025-CA-53<br><br>Trial Court Case Nos. 2021-1144, 2021-1145<br><br>(Admin. Appeals)<br><br>FINAL JUDGMENT ENTRY & OPINION |

. . . . . .

Pursuant to the opinion of this court rendered on December 30, 2025, the decision of the Ohio Board of Tax Appeals is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately serve notice of this judgment upon all parties and make a note in the docket of the service. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,

Mary K. Huffman

MARY K. HUFFMAN, JUDGE

EPLEY, P.J., and HANSEMAN, J., concur.

EXHIBIT
2

OPINION
CLARK C.A. No. 2025-CA-53

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ROBERT M. MORROW, Attorney for Appellee Northeastern Local School District Board of Education
KAROL C. FOX, Attorney for Appellee Board of Education of the Clark-Shawnee Local School District

HUFFMAN, J.

{¶ 1} Plaintiff-Appellant Zuber Crossing, LLC, ("Zuber") challenges the tax classification of three parcels of real property under R.C. 5713.041 as assigned by the Clark County Auditor for tax year 2020. The property—identified by the auditor's records as parcels 330-06-00006-100-024 ("-024"), 330-06-00006-100-021 ("-021"), and 320-02-00001-000-141 ("-141")—were deemed "vacant commercial land" by the auditor based on the parcels' location and their highest and best probable legal use. Zuber contends that based on the parcels' principal, current use, i.e., farming hay, the land should have been classified as agricultural, not commercial.

{¶ 2} Under R.C. 5713.041, "[v]acant 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 Clark County Board of Revision ("BOR") and the Ohio Board of Tax Appeals ("BTA") agreed with the auditor that the parcels were vacant tracts of land upon which there were no structures or improvements. They concluded that the parcels were properly classified in accordance with their location and their highest and best probable legal use, which in this case was commercial. In upholding the BOR's decision to maintain the auditor's classification of the parcels, the BTA concluded that the subject parcels were vacant commercial land given the parcels' history, the sale of parcel -021 in

2021 for commercial use, and the parcels' proximity to other commercial development. For the reasons outlined below, we affirm the decision of the BTA.

## I. Background Facts and Procedural History

{¶ 3} Zuber was the owner of several parcels of land adjacent to a large commercial corridor in Clark County, Ohio. The three subject parcels were originally part of a larger 26-acre parcel, which was previously classified as residential but was essentially a hay field. Prior to 2015, the entire 26-acre parcel, owned by Zuber's predecessor, was periodically harvested for hay. In 2015, the 26-acre parcel was subdivided, and three of its smaller parcels were sold for commercial development, including the construction of Hobby Lobby, IHOP, and a dollar store. The three parcels at issue in this case remained as residual lots in that commercial area.

{¶ 4} Zuber, which identified as a farming business, acquired the subject property in December 2018 as the result of an exempt transaction following a related party transfer. In January 2019, Zuber entered into a farm hayfield lease agreement with John Van Sickle, who owns a 1% ownership interest in Zuber. Under the agreement, Zuber leased the residual parcels to Van Sickle for $2,500 annually, and Van Sickle used the land for cutting and baling hay. Van Sickle then personally transported the hay from the parcels to his private property and used it to feed his horses.

{¶ 5} According to Zuber, pursuant to the farm lease agreement, the three parcels at issue were used for agricultural purposes—growing, harvesting, and baling hay on all three parcels. Zuber stored a hay bine, rake, and hay baler on a fourth parcel that is not at issue in this case. Although the parcels were zoned commercial, they were never used for commercial purposes by Zuber.

{¶ 6} For the 2020 tax year, the Clark County Auditor classified all three parcels under land code "400" as "vacant commercial land." Parcels -024, -021, and -141 were 5.62 acres, 1.16 acres, and 1.51 acres, respectively. Parcels -024 and -021 were located in the Clark-Shawnee Local School District, and parcel -141 was located in the Northeastern Local School District.

{¶ 7} As a result of the "vacant commercial land" classifications, Zuber filed complaints against the valuation of real property with the BOR, contesting the parcels' classifications as "commercial." Zuber argued that the parcels should have been classified as "agricultural" under R.C. 5713.041 and requested that the values of the parcels be reduced to $26,425 (-141), $20,300 (-021), and $98,350 (-024) in accordance with their use as vacant agricultural land. The Clark-Shawnee Local School District and the Northeastern Local School District filed countercomplaints, becoming parties to the case and requesting that the current commercial values of the parcels be maintained.

{¶ 8} In support of its complaints, Zuber contended that under Adm.Code 5703-25-10(B), the parcels were used for agricultural purposes, even though growing hay is not specifically listed as an agricultural purpose under the rule. The BOR disagreed with Zuber and denied its request to change the classification of the parcels to vacant agricultural land. The BOR determined that the parcels would remain classified as vacant commercial land because they were located in a "business cluster." The BOR pointed out that according to R.C. 5713.041, "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 BOR surmised that given the parcels' location, the highest and best use was commercial.

{¶ 9} Zuber appealed the BOR's decisions to the BTA. The appeals were consolidated and heard by the BTA in April 2022. At the BTA hearing, Van Sickle testified, identifying himself as a 1% owner of Zuber and as the tenant leasing a total of four parcels under the farm lease agreement. He testified that he farmed the subject land, cutting the grass at least twice a year for hay bales for his own use. He acknowledged that in December 2021, parcel -021 (in the Clark-Shawnee Local School District) had been sold for commercial development and that all three parcels were currently zoned commercial as part of a "CO-2 Community Commercial District." He recognized that the curb cutout and pavement improvement on parcel -141 had no agricultural purpose and were similar to another curb cutout that was created as an access point for entering and exiting the IHOP parking lot on the adjacent parcel. Van Sickle acknowledged that there was a large sign on parcel -141 that suggested the parcel was available for commercial development. He also stated that there were no vertical structures (i.e., buildings, fences) or other improvements on the subject parcels. He testified that he did not know if the property was farmed in the past but that he harvested approximately 440 bales of hay from the parcels in 2019; however, there was no testimony regarding the number of bales harvested per parcel in the 2020 tax year. Zuber presented no other evidence that the subject parcels were farmed before Van Sickle's 2019 lease.

{¶ 10} Both school districts opposed Zuber's appeal, asserting that the parcels were commercial plots of land being used only temporarily for cutting grass. The districts argued that pursuant to R.C. 5713.041, the parcels were to be classified according to their highest and best probable legal use—namely, commercial development based on their location and vacancy. They also argued that the farming lease between Zuber and Van Sickle was self-serving. Van Sickle was a 1% owner of Zuber, and Zuber used the lease to support its

application for the Current Agricultural Use Value ("CAUV") program. The school districts contended that though it was not the subject of this case, Zuber's failure to qualify for the CAUV program for the subject parcels was additional evidence that supported the BTA's finding that the parcels were not "agricultural." Ohio's CAUV program is a special program that assesses agricultural property based on its use value, not its market value, to provide property tax relief. When a parcel of real property has less than 10 acres, there are limited circumstances in which the property may qualify for the CAUV program, including when the property produces an average gross income of at least $2,500 for the three years prior to the date of application. *See* R.C. 5713.30. Zuber applied for the CAUV program on the subject parcels in 2019, but its CAUV application was denied by the auditor.

{¶ 11} In July 2025, the BTA affirmed the BOR's decisions. It found that the BOR correctly maintained the classification of the three parcels as vacant commercial land. The BTA pointed out that the subject three parcels were small residual plots derived from a large parcel of land; that in 2015, three other parcels from the large original parcel were subdivided and sold for the commercial development of Hobby Lobby, IHOP, and a dollar store; that there was insufficient evidence that the subject parcels were farmed before the 2019 lease agreement between Zuber and Van Sickle; and that parcel -021 was sold without structures for commercial development in the amount of $550,000 in 2021. In rendering its decision, the BTA cited the language of R.C. 5713.041 relevant to vacant lots and concluded that the subject property's highest and best use was commercial development based on the parcels' history, the sale of parcel -021 in 2021 for commercial development, and the parcels' proximities to other commercial development.

{¶ 12} Zuber now appeals the BTA's decision.

## II. Assignments of Error

**{¶ 13}** Zuber asserts the following two assignments of error:

> The Board of Tax Appeals decision failed to classify the real estate at issue pursuant to O.R.C. § 5713.041 according to its current, actual use as vacant, agricultural land.
>
> The Board of Tax Appeals decision ignores the plain language of O.R.C. § 5713.041.

*Standard of Review*

**{¶ 14}** In reviewing a BTA decision, we consider whether the decision was "reasonable and lawful." *Columbus City School Dist. Bd. of Edn v. Zaino* (2001), 90 Ohio St.3d 496, 497; *see* R.C. 5717.04. We are "neither a super Board of Tax Appeals nor a trier of fact *de novo*." *Westhaven, Inc. v. Wood Cty. Bd. of Revision*, 81 Ohio St. 3d 67, 69-70, citing *Youngstown Sheet & Tube Co. v. Mahoning Cty. Bd. of Revision*, 66 Ohio St.2d 398, 400 (1981).

**{¶ 15}** "The BTA is responsible for determining factual issues and, if the record contains reliable and probative support for these BTA determinations," we will affirm them. *Am. Natl. Can Co. v. Tracy* (1995), 72 Ohio St.3d 150, 152. "The BTA has discretion in admitting evidence, weighing it, and granting credibility to testimony." *Westhaven* at 70, citing *Orange City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 74 Ohio St.3d 415, 416 (1996); *Vandalia-Butler City Sch. Dist. Bd. of Edn. v. Montgomery Cty. Bd. of Revision*, 2005-Ohio-4385, ¶ 5, quoting *Fawn Lake Apts. v. Cuyahoga Cty. Bd. of Revision*, 85 Ohio St.3d 609, 613 (1999) ("[T]he BTA possesses wide discretion in evaluating the weight of the evidence and the credibility of the witnesses that come before it."). "'We will not reverse the BTA's determination on credibility of witnesses and weight given to their

testimony unless we find an abuse of . . . discretion.'" *Vandalia-Butler City Sch. Dist. Bd. of Edn.* at ¶ 11, quoting *Natl. Church Residence v. Licking Cty. Bd. of Revision*, 73 Ohio St.3d 397, 398 (1995).

**{¶ 16}** While we "will not hesitate to reverse a BTA decision that is based on an incorrect legal conclusion," the burden of proof rests on the taxpayer to show the manner and extent of the error in the final determination *Gahanna-Jefferson Local School Dist. Bd. of Edn. v. Zaino*, 93 Ohio St.3d 231, 232 (2001); *Stds. Testing Laboratories, Inc. v. Zaino*, 2003-Ohio-5804, ¶ 30. The findings "are presumptively valid, absent a demonstration that those findings are clearly unreasonable or unlawful." *Nusseibeh v. Zaino*, 2003-Ohio-855, ¶ 10.

*Classification of Real Estate for Taxation*

**{¶ 17}** Article XII, Section 2a(C)(1) of the Ohio Constitution authorizes the classification of real estate for taxation, stating that land and improvements in each taxing district shall be categorized as "residential and agricultural land and improvements" or "all other land and improvements." Ohio Const., art. XII, § 2a(C)(1)(a) and (b). The land and improvements are placed into one of two classes solely for the purpose of separately reducing the taxes charged against all land and improvements. *Id.*

**{¶ 18}** Following the directive of Article XII, Section 2a(C), the Ohio legislature adopted R.C. 5713.041, which governs the classification of property for purposes of tax reduction and requires the county auditor to classify each parcel of real property according to its principal, current use. However, *vacant* lots and tracts of land upon which there are no structures or improvements are to be classified "in accordance with their location and their highest and best probable legal use." R.C. 5713.041. Each year, the auditor shall reclassify each parcel "whose principal, current use has changed from the preceding year to a use

appropriate to classification in the other class." *Id.* Under R.C. 5715.19, a complainant may challenge any classification made pursuant to R.C. 5713.041.

{¶ 19} To facilitate our discussion, we consider Zuber's assignments of error together. Zuber first contends that the BTA erred in failing to classify the real estate according to its current, actual use as vacant agricultural land. It asserts that hay was the general crop grown for its agricultural use and that the only use and activity for the property was growing hay. Zuber also argues that the BTA failed to follow the plain language of R.C. 5713.041. Zuber claims that the BTA ignored the first sentence of R.C. 5713.041, which provides that "[e]ach separate parcel of real property shall be classified by the county auditor according to *its principal, current use*." It asserts that because the principal, current use of the subject parcels in 2020 was for an agricultural purpose, the BTA failed to classify the real estate in accordance with R.C. 5713.041 by classifying the parcels as commercial.

{¶ 20} However, the statutory language of R.C. 5713.041 highlighted by Zuber does not stop there. Zuber's argument ignores the second sentence of R.C. 5713.041, which states that "[v]acant 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 second sentence clearly provides that *vacant* lots and tracts of land without structures or improvements are to be classified based on their location and their highest and best probable legal use, *not* their principal, current use.

{¶ 21} Based on this language, the BTA found that the parcels were vacant commercial land, concluding that their highest and best use was commercial development based on the parcels' history, the sale of parcel -021 in 2021 for commercial development, and the parcels' proximities to other commercial development. Zuber contends, though, that because the parcels in question were being used for agricultural purposes and thus were

not vacant, there was no reason for the BTA to even consider the second sentence of R.C. 5713.041 regarding vacant land. Zuber argues that the term "vacant" is undefined and that absent a statutory definition, the legislature intended the ordinary and plain use of the term. Zuber proffers its own definition of "vacant land." It submits that "vacant land" is property that is not used, and because the subject parcels were used for an agricultural activity, they were neither unused nor vacant. According to Zuber, if there is use, the land cannot be vacant.

**{¶ 22}** In consideration of this argument, we look to Adm.Code 5703-25-10 as an extension of R.C. 5713.041 for further guidance regarding the classification of real property. Adm.Code 5703-25-10(A) reiterates the county auditor's obligation to specifically classify each parcel of taxable real property in the county into one of two categories: (1) residential and agricultural land and improvements or (2) all other taxable land and improvements, including commercial, industrial, mineral and public utility land and improvements. "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." Adm.Code 5703-25-10(C). Under this rule, land can be classified as "100 Agricultural vacant land" or "400 Commercial - vacant land." *Id.*

**{¶ 23}** Adm.Code 5703-25-10(B) reinforces that "[e]ach 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 other words, parcels of property with improvements are to be classified according to their principal and current use, whereas vacant parcels are to be classified according to their location and highest and best probable legal use. Taken as a whole, this rule makes clear that "vacant" parcels include those that do not contain any

improvements and that a "vacant" parcel can be classified as either *vacant agricultural land* or *vacant commercial land*. We do not agree with Zuber that the meaning of "vacant" is ambiguous or that "vacant" means "unused" land.

{¶ 24} Based on our review, we agree with the BTA that the subject parcels were "vacant" land because they contained no structures or improvements. As such, the plain language of R.C. 5713.041, in combination with Adm.Code 5703-25-10(B), required the parcels to be classified in accordance with their location and highest and best probable legal use.

{¶ 25} The record supports the BTA's reasoning that the parcels at issue were to be classified as vacant commercial land (their highest and best probable legal use). The parcels were residuals from a larger parcel that had been subdivided and partially sold for commercial development. The parcels were zoned commercial and were in a highly commercialized retail area. Since this dispute arose, a large sign had been placed on parcel -141 (which had a curb cutout and pavement improvement) suggesting that the parcel was available for commercial development. Parcel -021 was, in fact, sold for commercial development. While this sale occurred in 2021 after the 2020 tax year, the nature of the sale suggests that the auditor's determination in 2020—that the land's highest and best probable legal use was vacant commercial land—was reasonable. Further, there was no evidence that the parcels were farmed before Van Sickle's 2019 lease. We cannot say that agricultural vacant land was the parcels' highest and best probable legal use merely because Van Sickle mowed the grass twice a year for hay baling and transported the hay to his own property to feed his horses.

{¶ 26} Under these circumstances, Zuber did not meet its burden to show the manner and extent of the error in the BTA's final determination. We cannot say that the BTA rendered

a clearly unreasonable and unlawful decision by upholding the BOR's decision maintaining the auditor's classification of the parcels as vacant commercial land.

{¶ 27} Zuber's assignments of error are overruled.

## III. Conclusion

{¶ 28} Having overruled Zuber's assignments of error, the BTA's decision is affirmed.

. . . . . .

EPLEY, P.J., and HANSEMAN, J., concur.

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OHIO BOARD OF TAX APPEALS

ALTAIR REALTY LTD, (et. al.),

Appellant(s),

vs.

DELAWARE COUNTY BOARD OF REVISION, (et. al.),

Appellee(s).

CASE NO(S). 2015-1489, 2015-1491

(REAL PROPERTY TAX)

DECISION AND ORDER

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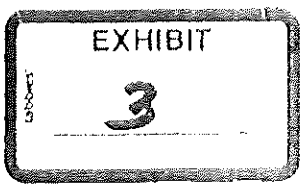



Entered Monday, August 8, 2016

Mr. Williamson, Ms. Clements, and Mr. Harbarger concur.

Appellants appeal a decision of the board of revision ("BOR"), which determined that a portion of the subject property, parcel numbers 317-332-02-021-000 and 317-333-01-003-000, did not qualify for the

current agricultural use value ("CAUV") program for tax year 2014. These matters are now considered upon the notices of appeal, the transcript certified by the BOR pursuant to R.C. 5717.01, the record of the hearing before this board, and the parties' written argument.

The parcels at issue total roughly 33.121 acres of land, and are part of a farm that consists of approximately 62.209 acres of land ("the farm"), according to the agricultural lease agreement. The subject property was purchased by the City of Westerville ("Westerville") from Altair Realty ("Altair") in May 2014. Kevin L. Scott of XO Acres had farmed Altair's land for over ten years and continued to farm the subject property after ownership transferred. For tax year 2014, the Delaware County Auditor removed the CAUV status for 21.26 acres of land, and the appellants filed a complaint seeking reinstatement of the subject's CAUV status.

At the BOR hearing, representatives from Westerville and Altair described the transfer of ownership and future use of the land, explaining that Westerville purchased the property for economic development and it would not be farmed indefinitely. Mr. Scott testified regarding his use of the property, asserting that he planted hay on relevant portions of the subject parcels, but that the crop failed in 2014 because it had been eaten by geese. Mr. Scott also described trouble with deer eating corn planted on other areas of the farm. Mr. Scott testified that he had crop insurance on the land and certified his 2014 crop to the Farm Service Agency, though he acknowledged that the FSA rarely physically inspects fields. Following the hearing, Mr. Scott provided photographs of farm equipment, seeds, and geese feeding, along with a Report of Commodities Farm Summary, an aerial photograph from the USDA, and a November 2012 receipt for seeds. The BOR issued a decision denying reinstatement of the subject into the CAUV program.

From this decision, appellants filed the present appeals, again seeking CAUV status for the entire subject property. Mr. Scott again testified before this board regarding the farming activity on the farm, and appellants offered more photographs of the subject property. Various individuals from the auditor's office, including the Auditor himself, the Real Estate Administrator, and the individual who monitor's the CAUV program, testified as witnesses for the county appellees. These witnesses described multiple field checks, whereupon they visited the subject property and took photographs to document the condition of the land at issue in this appeal, which they assert was not being farmed. They also described an October 2014 meeting that took place with Mr. Scott, during which they contend he admitted that the land at issue was not being farmed. In addition to this testimony, the county appellees presented several emails, photographs, and a map that had some markings on it with the initials of Mr. Scott and the county's Real Estate Administrator. According to the county appellees, the markings delineate the borders of the land that is being farmed and that which Mr. Scott has discontinued using for agriculture. After this meeting, the land at issue on appeal was removed from CAUV, purportedly to reflect the statements made by Mr. Scott and the lines on the map. Mr. Scott acknowledged that he had signed the map, but did not recall making the map or telling the auditor's office the land was not being farmed.

Appellants argue that they showed the property was primarily used for agricultural purposes because it was planted with winter wheat and timothy hay, and Ohio law permits the presence of extreme conditions, such as crop damage, as long as the primary use of the property remains agricultural. Appellants further argue that the auditor erred when it removed portions of the property that were incidental to and necessary for agricultural farm operations, i.e., equipment storage areas and access points. The appellee parties assert that the auditor properly removed the relevant portions of the subject property from CAUV because they are not lands devoted exclusively to agricultural use. The appellees further contend that appellants have not demonstrated that the presence of extreme conditions prevented the devotion of the subject property exclusively to commercial agricultural use, and that the portions used for staging and storing of the equipment are not entitled to CAUV status.

"When cases are appealed from a board of revision to the BTA, the burden of proof is on the appellant, whether it be a taxpayer or a board of education, to prove its right to an increase [in] or decrease from the value determined by the board of revision." *Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of*

*Revision* (2001), 90 Ohio St.3d 564, 566. See, also, *Shinkle v. Ashtabula Cty. Bd. of Revision*, 135 Ohio St.3d 227, 2013-Ohio-379. In *EOP-BP Tower, L.L.C. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 1, 2005-Ohio-3096, ¶6, the court elaborated: "In order to meet that burden, the appellant must come forward and demonstrate that the value it advocates is a correct value. Once competent and probative evidence of value is presented by the appellant, the appellee who opposes that valuation has the opportunity to challenge it through cross-examination or by evidence of another value. *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, ***. The appellee also has a choice to do nothing. However, the appellant is not entitled to the valuation claimed merely because no evidence is adduced opposing that claim. *W. Industries, Inc. v. Hamilton Cty. Bd. of Revision* (1960), 170 Ohio St. 340, 342, ***." Id. at ¶5-6. (Parallel citations omitted.)

R.C. 5713.30 provides an alternative value for land devoted exclusively to agricultural use based on its current agricultural use rather than market value. "Under the authorizing [constitutional] amendment and 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.' *Renner v. Tuscarawas Cty. Bd. of Revision* (1991), 59 Ohio St.3d 142 ***." *Fife v. Greene Cty. Bd. of Revision*, 120 Ohio St.3d 442, 2008-Ohio-6786, ¶4. Pursuant to R.C. 5713.30(A)(1)(a), "land devoted exclusively to agricultural use" includes "tracts, lots, or parcels of land totaling not less than ten acres" when for the prior three years, the "tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the 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." When land no longer is devoted exclusively to agricultural use, it is considered "converted" and subject to recoupment of the tax savings resulting from agricultural valuation for the prior three years. R.C. 5713.34; R.C. 5713.35.

As previously noted, the land at issue in the instant appeals comprise only a portion of the subject parcels and are part of a larger 62-acre farm. In *Renner*, supra, the court held that an auditor could asses a recoupment charge on converted land that was part of a larger parcel. In doing so, the court relied on its previous acknowledgement that although the numbered permanent parcel is an important unit in the auditor's assessing taxes against real estate, the true value for real property may depend on its potential use as an economic unit, which could include multiple parcels or be part of a larger parcel. Id. at 144, citing *Park Ridge Co. v. Franklin Cty. Bd. of Revision*, 29 Ohio St. 3d. 12 (1987). More recently, however, the court clarified that the parcels at issue in *Renner* had been converted when a portion was leased for a nonagricultural, commercial use, and placed a burden firmly on an owner to demonstrate the precise area devoted to agricultural and nonagricultural use, or the recoupment would equal the tax savings related to the entire parcel. *Maralgate, L.L.C. v. Greene Cty. Bd. of Revision*, 130 Ohio St.3d 316, 2011-Ohio-5448, ¶32. The *Maralgate* court affirmed this board's rejection of the *Renner* doctrine in that case because there was no non-agricultural commercial use, rejecting the county's argument that any acreage not directly farmed must be separated and subjected to market valuation, even if it has no separate commercial use. Id. at ¶¶34-35.

In the present appeal, there is no dispute that the land at issue on appeal shares common ownership with and is contiguous to a larger 62 acre farm. There is also no dispute that remainder of the farm continued to be commercially farmed, as the county appellees acknowledge that crops were grown on the adjacent land, including soybeans and hay used to feed Mr. Scott's cattle. As was the case in *Maralgate*, there is no evidence that the land at issue was converted for some other commercial purpose that would give it an identity as a separate economic unit. While we concede that the land was apparently purchased for future economic development, there is no indication from this record that any development had begun prior to the end of May 2014, which is the relevant timeframe for the determination of the property's CAUV status for tax year 2014. See R.C. 5713.30(A)(1).

Accordingly, we find that the BOR erred in denying any portion of the subject property CAUV status. Consequently, we hereby reverse the decision of the Delaware County Board of Revision, and further order the Delaware County Auditor to restore all 33.121 acres of the subject parcels to CAUV status for tax year 2014.

| BOARD OF TAX APPEALS | | |
|---|---|---|
| RESULT OF VOTE | YES | NO |
| Mr. Williamson | | |
| Ms. Clements | | |
| Mr. Harbarger | | |

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.

Kathleen M. Crowley, Board Secretary

Exh 2

STEPHEN 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.

REAL ESTATE TAX: TAX YEAR 2015

PROPERTY ADDRESS: N BECHTLE AVE

STUB # 60589 PAGE 1 LINE 13263 3

PARCEL ID: 330-06-00006-100-010

TAX DISTRICT: SPRINGFIELD CORP CSLSD

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

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

LEGAL DESCRIPTION: PT S R W & N E ORS

## 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

| PROJECT AND DESCRIPTION | DELINQUENT | CURRENT |
|---|---|---|
| TOTAL | | |

**LAST DAY TO PAY WITHOUT PENALTY**
**02/12/2016**

## CURRENT TAXES

| | |
|---|---|
| Gross Real Estate Taxes | [illegible] |
| Tax Increment | [illegible] |
| Subtotal | [illegible] |
| Non-Business Credit | [illegible] |
| Current Net Real Estate Taxes | 4,[illegible] |
| Current Net Taxes & Assmts (Year) | 4,[illegible] |
| Current Net Taxes & Assmts (Half) | 2,[illegible] |
| PAYMENTS/CREDITS | $0.00 |
| TOTAL REAL ESTATE TAX DUE | $2,481.69 |
| FULL YEAR AMOUNT | $4,963.38 |

5.62 Acre Ex 1, 2

3300600006100024

CLARK COUNTY
OHIO

Hillary Hamilton
County Auditor
Clark County, Ohio
clarkcountyauditor.org

1/6/2026

Parcel

(400) COMMERCIAL VACANT L

Owner

SOLD: 12/26/2016 $0.00

Address

CLARK-SHAWNEE LSD

Appraised

ACRES: 5.620

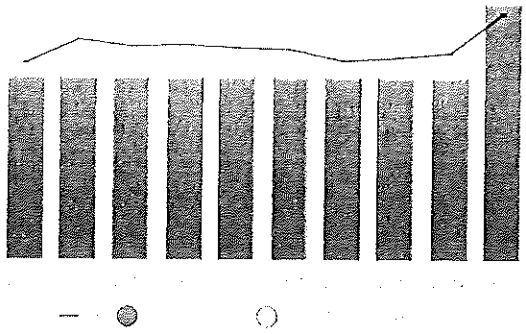
No Sketches for this Parcel

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

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

| | Appraised (100%) | | | Assessed (35%) | | |
|---|---|---|---|---|---|---|
| Year | Land | Improvements | Total | Land | Improvements | Total |
| 2025 | $1,609,000.00 | $0.00 | $1,609,000.00 | $563,150.00 | $0.00 | $563,150.00 |
| 2024 | $1,149,290.00 | $0.00 | $1,149,290.00 | $402,250.00 | $0.00 | $402,250.00 |
| 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 |

Historic Appraised (100%) Values



| | | | |
|---|---|---|---|
| Legal Acres | 5.620 | Homestead Reduction | NO |
| Legal Description | PTS N W & N E QRS<br>(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 | $30,028.88 |

| Name | Ownership |
|---|---|
| ZUBER CROSSING LLC | 100% |

No Residential Records Found.

No Permit Records Found.

No Agricultural Records Found.

No Commercial Records Found.

No Improvement Records Found.

| 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 - Unknown | - Unknown | 3 | $0.00 |
| 11/20/2015 | NORTH BECHTLE SQUARE I INVESTMENTS LLC | NORTH BECHTLE SQUARE I INVESTMENTS LLC | 4247 ( / ) | QC - QUIT CLAIM DEED | - Unknown | 6 | $0.00 |

| Land Type | Land Code | Frontage | Depth | Acres | Square Foot | Value |
|---|---|---|---|---|---|---|
| ACREAGE | PRIMARY SITE | 0 | 0 | 4.120 | 179,467.00 | $1,243,100.00 |
| ACREAGE | UNDEVELOPED/RESIDUAL | 0 | 0 | 1.500 | 65,340.00 | $365,900.00 |
| **Totals** | | | | 5.620 | 244,807 | $1,609,000.00 |

2025 Payable 2026

| | Delinquent | First Half | Second Half | Total |
|---|---|---|---|---|
| Gross Tax | $0.00 | $19,535.67 | $19,535.67 | $39,071.34 |
| Reduction | | -$4,521.23 | -$4,521.23 | -$9,042.46 |
| Effective Tax | $0.00 | $15,014.44 | $15,014.44 | $30,028.88 |
| 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 | $15,014.44 | $15,014.44 | $30,028.88 |
| 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 | $15,014.44 | $15,014.44 | $30,028.88 |

| | | | | |
|---|---|---|---|---|
| Payments Made | $0.00 | $0.00 | $0.00 | $0.00 |
| Taxes Due | $0.00 | $15,014.44 | $15,014.44 | $30,028.88 |

## Yearly Tax Value Summary

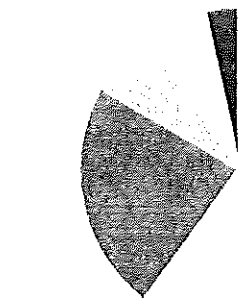
| Year | Effective Tax | Net General | Taxes Billed |
|---|---|---|---|
| 2025 | $30,028.88 | $30,028.88 | $30,028.88 |
| 2024 | $25,239.16 | $25,239.16 | $25,239.16 |
| 2023 | $24,631.68 | $24,631.68 | $24,631.68 |
| 2022 | $24,261.86 | $24,261.86 | $24,261.86 |
| 2021 | $25,651.96 | $25,651.96 | $25,651.96 |
| 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 |

[redacted]

| Payment Date | Tax Year | Amount |
|---|---|---|
| 1/24/2025 | 2024 | $25,239.16 |
| 2/7/2024 | 2023 | $24,631.68 |
| 2/13/2023 | 2022 | $24,261.86 |

[redacted]

2024



| Tax Unit Name | Levy Name | Amount | Percentage |
|---|---|---|---|
| Clark | Clark-Shawnee Lsd | $15,184.76 | 60.15% |
| Clark County | Clark County | $5,682.86 | 22.51% |
| Clark County Health & Library Levy | Clark County Health & Library Levy | $910.61 | 3.61% |
| Springfield City | Springfield City | $1,609.00 | 6.38% |
| Springfield Clark County Jvsd | Springfield Clark County Jvsd | $1,651.99 | 6.55% |
| Totals | | $25,239.16 | 100% |

## Special Assessments

No Special Assessment Records Found.

1.51 Ac Exhibit 3

3200200001000141

CLARK COUNTY
OHIO

Hillary Hamilton
County Auditor
Clark County, Ohio
clarkcountyauditor.org

1/6/2026

Parcel

(400) COMMERCIAL VACANT L...

Owner

SOLD: 12/26/2018 $0.00

Address

NORTHEASTERN LSD

Appraised

ACRES: 1.510

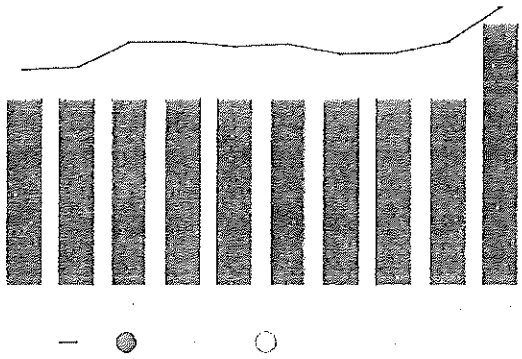
No Sketches for this Parcel

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

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

| | Appraised (100%) | | | Assessed (35%) | | |
|---|---|---|---|---|---|---|
| Year | Land | Improvements | Total | Land | Improvements | Total |
| 2025 | $917,200.00 | $0.00 | $917,200.00 | $321,020.00 | $0.00 | $321,020.00 |
| 2024 | $655,140.00 | $0.00 | $655,140.00 | $229,300.00 | $0.00 | $229,300.00 |
| 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 |

Historic Appraised (100%) Values



## Land

| | | | |
|---|---|---|---|
| Legal Acres | 1.510 | Homestead Reduction | NO |
| Legal Description | S PT S W QR<br>(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 | $17,430.24 |

## 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.

## Improvement Detail

No Improvement Records Found.

| 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 - Unknown | - Unknown | 3 | $0.00 |
| 11/20/2015 | NORTH BECHTLE SQUARE I INVESTMENTS LLC | NORTH BECHTLE SQUARE I INVESTMENTS LLC | 4247 ( / ) | QC - QUIT CLAIM DEED | - Unknown | 6 | $0.00 |

| Land Type | Land Code | Frontage | Depth | Acres | Square Foot | Value |
|---|---|---|---|---|---|---|
| SQUARE FOOT | PRIMARY SITE | 0 | 0 | 1.510 | 65,775.00 | $917,200.00 |
| **Totals** | | | | 1.510 | 65,775 | $917,200.00 |

2025 Payable 2026

| | Delinquent | First Half | Second Half | Total |
|---|---|---|---|---|
| Gross Tax | $0.00 | $12,466.81 | $12,466.81 | $24,933.62 |
| Reduction | | -$3,751.69 | -$3,751.69 | -$7,503.38 |
| Effective Tax | $0.00 | $8,715.12 | $8,715.12 | $17,430.24 |
| 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 | $8,715.12 | $8,715.12 | $17,430.24 |
| 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 | $8,715.12 | $8,715.12 | $17,430.24 |

| | | | | |
|---|---|---|---|---|
| Payments Made | $0.00 | $0.00 | $0.00 | $0.00 |
| Taxes Due | $0.00 | $8,715.12 | $8,715.12 | $17,430.24 |

## Yearly Tax Value Summary

| Year | Effective Tax | Net General | Taxes Billed |
|---|---|---|---|
| 2025 | $17,430.24 | $17,430.24 | $17,430.24 |
| 2024 | $15,234.42 | $15,234.42 | $15,234.42 |
| 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 |

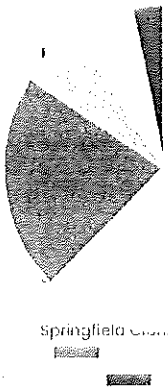
[redacted]

| Payment Date | Tax Year | Amount |
|---|---|---|
| 1/24/2025 | 2024 | $15,204.42 |
| 1/14/2025 | 2024 | $30.00 |
| 2/7/2024 | 2023 | $14,558.88 |
| 2/13/2023 | 2022 | $14,515.30 |

[redacted]

2024

| Tax Unit Name | Amount | Percentage |
|---|---|---|
| Clark County | $3,353.48 | 22.01% |
| Clark County Health & Library Levy | $519.10 | 3.41% |
| Northeastern Lsd | $9,507.94 | 62.38% |
| Springfield City | $917.20 | 6.02% |
| Springfield Clark County Jvsd | $941.70 | 6.18% |
| Totals | $15,234.42 | 100% |




No Special Assessment Records Found.

1.03 Ac Exhibit 3

3200200001100002

CLARK COUNTY
OHIO

Hillary Hamilton
County Auditor
Clark County, Ohio
clarkcountyauditor.org

1/6/2026

Parcel

(400) COMMERCIAL VACANT L...

Owner

SOLD. NO RECORD FOUND

Address

NORTHEASTERN LSD

Appraised

ACRES: 1.030

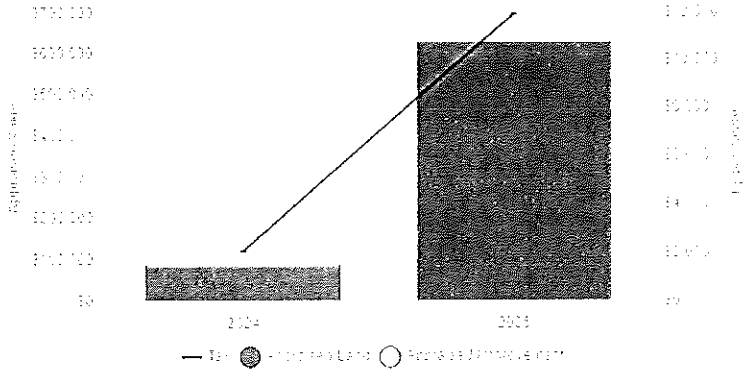
No Sketches for this Parcel

| | |
|---|---|
| Parcel | 3200200001100002 |
| Owner | ZUBER CROSSING LLC |
| Address | 2304 N BECHTLE AV SPRINGFIELD OH 45504 |
| City / Township | SPRINGFIELD CORPORATION |
| School District | NORTHEASTERN LSD |

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

| | Appraised (100%) | | | Assessed (35%) | | |
|---|---|---|---|---|---|---|
| Year | Land | Improvements | Total | Land | Improvements | Total |
| 2025 | $628,140.00 | $0.00 | $628,140.00 | $219,850.00 | $0.00 | $219,850.00 |
| 2024 | $89,730.00 | $0.00 | $89,730.00 | $31,410.00 | $0.00 | $31,410.00 |

Historic Appraised (100%) Values



| | | | |
|---|---|---|---|
| Legal Acres | 1.030 | Homestead Reduction | NO |

| | | | |
|---|---|---|---|
| Legal Description | NORTH BECHTLE SQUARE SEC 5 19451<br>(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 | $11,937.06 |

## 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.

## Improvement

No Improvement Records Found.

## Sales

No Sales Records Found.

## Land

| Land Type | Land Code | Frontage | Depth | Acres | Square Foot | Value |
|---|---|---|---|---|---|---|
| SQUARE FOOT | PRIMARY SITE | 0 | 0 | 1.030 | 44,867.00 | $628,140.00 |
| **Totals** | | | | 1.030 | 44,867 | $628,140.00 |

## Tax

2025 Payable 2026

| Delinquent | First Half | Second Half | Total |
|---|---|---|---|

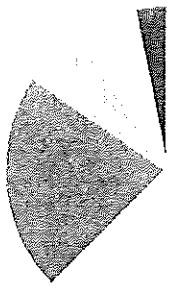
| | | | | |
|---|---|---|---|---|
| Gross Tax | $0.00 | $8,537.87 | $8,537.87 | $17,075.74 |
| Reduction | | -$2,569.34 | -$2,569.34 | -$5,138.68 |
| Effective Tax | $0.00 | $5,968.53 | $5,968.53 | $11,937.06 |
| Non-Business Credit | | $0.00 | $0.00 | $0.00 |
| Owner Occupancy Credit | | $0.00 | $0.00 | $0.00 |
| Homestead Reduction | | $0.00 | $0.00 | $0.00 |
| Net General | $0.00 | $5,968.53 | $5,968.53 | $11,937.06 |
| 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 | $5,968.53 | $5,968.53 | $11,937.06 |
| Payments Made | $0.00 | $0.00 | $0.00 | $0.00 |
| Taxes Due | $0.00 | $5,968.53 | $5,968.53 | $11,937.06 |

## Yearly Tax Value Summary

| Year | Effective Tax | Net General | Taxes Billed |
|---|---|---|---|
| 2025 | $11,937.06 | $11,937.06 | $11,937.06 |
| 2024 | $2,086.88 | $2,086.88 | $2,086.88 |

| Payment Date | Tax Year | Amount |
|---|---|---|
| 1/24/2025 | 2024 | $2,086.88 |

2024



| Tax Unit Name | Levy Name | Amount | Percentage |
|---|---|---|---|
| Clark County | Clark County | $459.38 | 22.01% |
| Clark County Health & Library Levy | Clark County Health & Library Levy | $71.11 | 3.41% |
| Northeastern Lsd | Northeastern Lsd | $1,301.76 | 62.39% |
| Springfield City | Springfield City | $125.64 | 6.02% |
| Springfield Clark County Jvsd | Springfield Clark County Jvsd | $128.99 | 6.18% |
| Totals | | $2,086.88 | 100% |

No Special Assessment Records Found.

Exhibit 4

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

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.

Exhibit 5

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

(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.

Effective: 10/3/2016
Five Year Review (FYR) Dates: 07/14/2016 and 10/03/2021
Promulgated Under: 119.03
Statutory Authority: 5703.05
Rule Amplifies: 5713.041
Prior Effective Dates: 12/28/1973, 11/1/1977, 10/20/1981, 9/14/1984 (Emer.), 12/11/1984, 9/18/03, 12/15/05

Exhibit 6

# 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 .*

[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.]

Exhibit 7



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.

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**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.

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

James R. Gorry, for appellants.

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OHIO BOARD OF TAX APPEALS

Exhibit 6

ALTAIR REALTY LTD, (et. al.),

Appellant(s),

vs.

DELAWARE COUNTY BOARD OF REVISION, (et. al.),

Appellee(s).

CASE NO(S). 2015-1489, 2015-1491

(REAL PROPERTY TAX)

DECISION AND ORDER

APPEARANCES:

For the Appellant(s) - ALTAIR REALTY LTD.
Represented by:
BRENT BARNES
ATTORNEY
GEIGER TEEPLE ROBINSON & MCELWEE, PLLC
1844 W. STATE STREET STE. A
ALLIANCE, OH 44601

CITY OF WESTERVILLE,OHIO
Represented by:
WILLIAM MCLOUGHLIN
METZ, BAILEY & MCLOUGHLIN
33 EAST SCHROCK RD.
WESTERVILLE, OH 43081

For the Appellee(s) - DELAWARE COUNTY BOARD OF REVISION
Represented by:
MARK W. FOWLER
ASSISTANT PROSECUTING ATTORNEY
DELAWARE COUNTY
140 NORTH SANDUSKY STREET
P.O. BOX 8006
DELAWARE, OH 43015

WESTERVILLE CITY SCHOOLS BOARD OF EDUCATION
Represented by:
MARK H. GILLIS
RICH & GILLIS LAW GROUP, LLC
6400 RIVERSIDE DRIVE, SUITE D
DUBLIN, OH 43017

Entered Monday, August 8, 2016

Mr. Williamson, Ms. Clements, and Mr. Harbarger concur.

Appellants appeal a decision of the board of revision ("BOR"), which determined that a portion of the subject property, parcel numbers 317-332-02-021-000 and 317-333-01-003-000, did not qualify for the

current agricultural use value ("CAUV") program for tax year 2014. These matters are now considered upon the notices of appeal, the transcript certified by the BOR pursuant to R.C. 5717.01, the record of the hearing before this board, and the parties' written argument.

The parcels at issue total roughly 33.121 acres of land, and are part of a farm that consists of approximately 62.209 acres of land ("the farm"), according to the agricultural lease agreement. The subject property was purchased by the City of Westerville ("Westerville") from Altair Realty ("Altair") in May 2014. Kevin L. Scott of XO Acres had farmed Altair's land for over ten years and continued to farm the subject property after ownership transferred. For tax year 2014, the Delaware County Auditor removed the CAUV status for 21.26 acres of land, and the appellants filed a complaint seeking reinstatement of the subject's CAUV status.

At the BOR hearing, representatives from Westerville and Altair described the transfer of ownership and future use of the land, explaining that Westerville purchased the property for economic development and it would not be farmed indefinitely. Mr. Scott testified regarding his use of the property, asserting that he planted hay on relevant portions of the subject parcels, but that the crop failed in 2014 because it had been eaten by geese. Mr. Scott also described trouble with deer eating corn planted on other areas of the farm. Mr. Scott testified that he had crop insurance on the land and certified his 2014 crop to the Farm Service Agency, though he acknowledged that the FSA rarely physically inspects fields. Following the hearing, Mr. Scott provided photographs of farm equipment, seeds, and geese feeding, along with a Report of Commodities Farm Summary, an aerial photograph from the USDA, and a November 2012 receipt for seeds. The BOR issued a decision denying reinstatement of the subject into the CAUV program.

From this decision, appellants filed the present appeals, again seeking CAUV status for the entire subject property. Mr. Scott again testified before this board regarding the farming activity on the farm, and appellants offered more photographs of the subject property. Various individuals from the auditor's office, including the Auditor himself, the Real Estate Administrator, and the individual who monitor's the CAUV program, testified as witnesses for the county appellees. These witnesses described multiple field checks, whereupon they visited the subject property and took photographs to document the condition of the land at issue in this appeal, which they assert was not being farmed. They also described an October 2014 meeting that took place with Mr. Scott, during which they contend he admitted that the land at issue was not being farmed. In addition to this testimony, the county appellees presented several emails, photographs, and a map that had some markings on it with the initials of Mr. Scott and the county's Real Estate Administrator. According to the county appellees, the markings delineate the borders of the land that is being farmed and that which Mr. Scott has discontinued using for agriculture. After this meeting, the land at issue on appeal was removed from CAUV, purportedly to reflect the statements made by Mr. Scott and the lines on the map. Mr. Scott acknowledged that he had signed the map, but did not recall making the map or telling the auditor's office the land was not being farmed.

Appellants argue that they showed the property was primarily used for agricultural purposes because it was planted with winter wheat and timothy hay, and Ohio law permits the presence of extreme conditions, such as crop damage, as long as the primary use of the property remains agricultural. Appellants further argue that the auditor erred when it removed portions of the property that were incidental to and necessary for agricultural farm operations, i.e., equipment storage areas and access points. The appellee parties assert that the auditor properly removed the relevant portions of the subject property from CAUV because they are not lands devoted exclusively to agricultural use. The appellees further contend that appellants have not demonstrated that the presence of extreme conditions prevented the devotion of the subject property exclusively to commercial agricultural use, and that the portions used for staging and storing of the equipment are not entitled to CAUV status.

"When cases are appealed from a board of revision to the BTA, the burden of proof is on the appellant, whether it be a taxpayer or a board of education, to prove its right to an increase [in] or decrease from the value determined by the board of revision." *Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of*

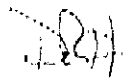
*Revision* (2001), 90 Ohio St.3d 564, 566. See, also, *Shinkle v. Ashtabula Cty. Bd. of Revision*, 135 Ohio St.3d 227, 2013-Ohio-379. In *EOP-BP Tower, L.L.C. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 1, 2005-Ohio-3096, ¶6, the court elaborated: "In order to meet that burden, the appellant must come forward and demonstrate that the value it advocates is a correct value. Once competent and probative evidence of value is presented by the appellant, the appellee who opposes that valuation has the opportunity to challenge it through cross-examination or by evidence of another value. *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, ***. The appellee also has a choice to do nothing. However, the appellant is not entitled to the valuation claimed merely because no evidence is adduced opposing that claim. *W. Industries, Inc. v. Hamilton Cty. Bd. of Revision* (1960), 170 Ohio St. 340, 342, ***." Id. at ¶5-6. (Parallel citations omitted.)

R.C. 5713.30 provides an alternative value for land devoted exclusively to agricultural use based on its current agricultural use rather than market value. "Under the authorizing [constitutional] amendment and 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.' *Renner v. Tuscarawas Cty. Bd. of Revision* (1991), 59 Ohio St.3d 142 ***." *Fife v. Greene Cty. Bd. of Revision*, 120 Ohio St.3d 442, 2008-Ohio-6786, ¶4. Pursuant to R.C. 5713.30(A)(1)(a), "land devoted exclusively to agricultural use" includes "tracts, lots, or parcels of land totaling not less than ten acres" when for the prior three years, the "tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the 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." When land no longer is devoted exclusively to agricultural use, it is considered "converted" and subject to recoupment of the tax savings resulting from agricultural valuation for the prior three years. R.C. 5713.34; R.C. 5713.35.

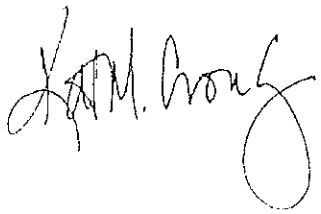
As previously noted, the land at issue in the instant appeals comprise only a portion of the subject parcels and are part of a larger 62-acre farm. In *Renner*, supra, the court held that an auditor could asses a recoupment charge on converted land that was part of a larger parcel. In doing so, the court relied on its previous acknowledgement that although the numbered permanent parcel is an important unit in the auditor's assessing taxes against real estate, the true value for real property may depend on its potential use as an economic unit, which could include multiple parcels or be part of a larger parcel. Id. at 144, citing *Park Ridge Co. v. Franklin Cty. Bd. of Revision*, 29 Ohio St. 3d. 12 (1987). More recently, however, the court clarified that the parcels at issue in *Renner* had been converted when a portion was leased for a nonagricultural, commercial use, and placed a burden firmly on an owner to demonstrate the precise area devoted to agricultural and nonagricultural use, or the recoupment would equal the tax savings related to the entire parcel. *Maralgate, L.L.C. v. Greene Cty. Bd. of Revision*, 130 Ohio St.3d 316, 2011-Ohio-5448, ¶32. The *Maralgate* court affirmed this board's rejection of the *Renner* doctrine in that case because there was no non-agricultural commercial use, rejecting the county's argument that any acreage not directly farmed must be separated and subjected to market valuation, even if it has no separate commercial use. Id. at ¶¶34-35.

In the present appeal, there is no dispute that the land at issue on appeal shares common ownership with and is contiguous to a larger 62 acre farm. There is also no dispute that remainder of the farm continued to be commercially farmed, as the county appellees acknowledge that crops were grown on the adjacent land, including soybeans and hay used to feed Mr. Scott's cattle. As was the case in *Maralgate*, there is no evidence that the land at issue was converted for some other commercial purpose that would give it an identity as a separate economic unit. While we concede that the land was apparently purchased for future economic development, there is no indication from this record that any development had begun prior to the end of May 2014, which is the relevant timeframe for the determination of the property's CAUV status for tax year 2014. See R.C. 5713.30(A)(1).

Accordingly, we find that the BOR erred in denying any portion of the subject property CAUV status. Consequently, we hereby reverse the decision of the Delaware County Board of Revision, and further order the Delaware County Auditor to restore all 33.121 acres of the subject parcels to CAUV status for tax year 2014.

| BOARD OF TAX APPEALS | | |
|---|---|---|
| RESULT OF VOTE | YES | NO |
| Mr. Williamson |  | |
| Ms. Clements | | |
| Mr. Harbarger |  | |

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.



Kathleen M. Crowley, Board Secretary

# RESIDENTIAL PROPERTY RECORD CARD

**CLARK COUNTY**

| Situs : N BECHTLE AVE | Map ID: 330-06-00006-100-024 | LUC: 400-COMMERCIAL VACANT LA | Card: 1 of 0 | Tax Year: 2025 | Printed: 03/27/26 |
|---|---|---|---|---|---|

## CURRENT OWNER

ZUBER CROSSING LLC

CAUV

Field Review Flag:

## GENERAL INFORMATION

| | |
|---|---|
| Routing No. | 0006-02 003-00 |
| Class | Commercial |
| Living Units | |
| Neighborhood | 340C6000 |
| District | |
| Zoning | |
| Alternate Id | |
| Tax District | Springfield Corp. Cslsd |

## Property Notes

TY16 SPL 5.62 AC FROM 019

Note Codes:

## Land Information

| Type | | Size | Influence Factors | | Influence % | Value |
|---|---|---|---|---|---|---|
| A-Primary Site | AC | 4.1200 | 4-Shape Or Siz | 10-Location | -20 | 1,243,100 |
| A-Undeveloped | AC | 1.5000 | 4-Shape Or Siz | 10-Location | -20 | 365,900 |

Total Acres: 5.62 Legal Acres: 5.6200 NBHD Fact: 1.0000

## Assessment Information

| | Assessed | Appraised | Cost | Income | Market |
|---|---|---|---|---|---|
| Land | 563,150 | 1,609,000 | 1,609,000 | 0 | 0 |
| Building | 0 | 0 | 0 | 0 | 0 |
| Total | 563,150 | 1,609,000 | 1,609,000 | 0 | 0 |

Value Flag 1-COST APPROACH

Manual Override Reason
Base Date of Value
Effective Date of Value
Owner Occupied

## Entrance Information

| Date | ID | Entry Code | Source |
|---|---|---|---|
| 03/08/25 | STP | 10-Adv | 3-Other |
| 11/15/17 | KAR | 0-Vac Or Oby Only | 3-Other |

## Permit Information

| Date Issued | Number | Price | Purpose | Note | Status |
|---|---|---|---|---|---|

## Sales/Ownership History

| Transfer Date | Price | Type | Validity | Deed Reference | Deed Type | Grantor |
|---|---|---|---|---|---|---|
| 12/26/18 | | | | | | NORTH BECHTLE SQUARE I INVESTMEN |
| 11/20/15 | | | | | QC-Quit Claim Deed | NORTH BECHTLE SQUARE I INVESTMEN |

## Property Factors

Topo:
Utilities:
Street/Road:
Traffic:

## Legal Description

Parcel Tieback:
Addl. Tieback:
Range - Township - Section: 09 - 04 - 06
Legal Descriptions:
PTS N W & N E QRS

# RESIDENTIAL PROPERTY RECORD CARD

CLARK COUNTY

| Situs : N BECHTLE AVE | Parcel Id: 330-06-00006-100-024 | LUC: 400-COMMERCIAL VACANT LANI | Card: 1 of 0 | Tax Year: 2025 | Printed: 03/27/26 |
|---|---|---|---|---|---|

## Dwelling Information

| | | | |
|---|---|---|---|
| Story height | | Total Rooms | |
| Exterior Walls | | Bedrooms | |
| Style | | Family Rooms | |
| Year Built | | Full Baths | |
| Eff Year Built | | Half Baths | |
| Year Remodeled | | Addl. Fixtures | |
| Kitchen Remod | | Total Fixtures | |
| Bath Remod | | | |
| Basement | | | |
| Heat Type | | Masonry Trim | |
| Fuel Type | | Unfinished Area | |
| System Type | | Rec Rm Size | |
| Attic | | FBLA Size | |
| Phy. Condition | | | |
| Int vs Ext | | Openings | |
| | | # Car Bsmt Gar | |
| Stacks | | | |
| Pre-Fab | | | |
| Misc | | Qty | |
| Grade | | | |
| CDU | | Functional | |
| Market Adj | | Economic | |
| % Complete | | % Good Ovr | |
| Cost & Design | 0 | NBHD Fact | |

## Additions

| Line | Low | 1st | 2nd | 3rd | Area | Yr Blt | Eff Yr | Grade | CDU | %Comp | Value |
|---|---|---|---|---|---|---|---|---|---|---|---|

## Dwelling Computations

| | | | |
|---|---|---|---|
| Base Price | | % Good | |
| Plumbing | | Market Adj | |
| Basement | | Functional | |
| Heating | | Economic | |
| Attic | | % Complete | |
| Other Features | 0 | C&D Factor | |
| | | Adj Factor | |
| Subtotal | | Additions | |
| Ground Floor Area | | | |
| Total Living Area | | Dwelling Value | |
| Building Notes | | | |

## Outbuilding Data

| Type | Yr Blt | Eff Yr | Size | Area | Gr | Qty | ModCd | PH | FV | MA | %Comp | Value |
|---|---|---|---|---|---|---|---|---|---|---|---|---|

## Misc & Gross Bulding Values

| | | | |
|---|---|---|---|
| Misc Building No | | Misc Adjusted Value | |
| Gross Building: | | | |

## Condominium / Mobile Home Information

| | | | |
|---|---|---|---|
| Complex Name | | Number | |
| Condo Model | | Unit Type | |
| Unit Number | | Unit View | |
| Unit Level | | Model (MH) | |
| | | Model Make (MH) | |