

**TESTIMONY REGARDING  
COMMERCIAL TENANT PROPERTY TAX VALUATION PROCESS**

**Before the House Ways and Means Committee**

J. Kieran Jennings, Esq.  
Managing Partner, Siegel Jennings Co., L.P.A.

May 12, 2020

Good afternoon Chairman Merrin, Vice Chairman LaRe, Ranking Member Rogers and members of the House Ways & Means Committee. My name is Kieran Jennings. I am a real property tax attorney and managing partner with the law firm Siegel Jennings Co., L.P.A. and Vice President of the American Property Tax Counsel, as well as a member of the Counselors of Real Estate. I am testifying today on behalf of commercial real estate tenants.

Siegel Jennings has been serving the interests of Ohio's taxpayers for over 40 years. Our firm and team focuses on helping Ohio's taxpayers ensure their real estate is fairly, accurately, and uniformly valued and taxed. Real estate taxes are one of the largest expenses commercial property taxpayers pay.

In my opinion, the Ohio Revised Code, as written presently, fails to provide commercial real estate tenants full and fair access to Ohio's valuation process. As a result, these tenants face additional hurdles in the process by which property owners challenge unfair or non-uniform real property tax assessments.

**General Summary of The Persons Who Can File Complaints Against the Valuation of Real Property**

R.C. 5715.19, in subsection (A)(1), identifies the persons who are permitted to file complaints against the valuation of real property. This class of permitted filers was expanded in 1998 to address issues and complications that resulted from the interpretation of the statute by the Board of Tax Appeals and various state courts.

Drafted legislative language would expressly allow a commercial or industrial tenant of a property the right to file in the tenant's own name if the subject lease requires the tenant to pay all of the real estate taxes for the leased real estate.

### **The Problem Faced by Commercial Tenants Under Current Law**

As currently written, Ohio law provides property owners, and certain property owner representatives, with the statutory right to file a complaint against the valuation of real property. In today's commercial real estate market, many taxpayers lease their real estate under such terms that push to their tenants virtually all rights and responsibilities of owning and maintaining the real estate. While the parties do have freedom to enter into contracts and the freedom to negotiate their respective duties and obligations that arise from owning and/or occupying commercial real estate, Ohio law, specifically R.C. 5715.19, fails to recognize these negotiations.

Many times, a commercial tenant occupies 100% of the land and improvements of a particular permanent parcel. And often the parties negotiate that the commercial tenant becomes 100% responsible for maintenance of that parcel's land and improvements. Such responsibilities include paying the county real estate tax bill twice each year, which is a major expense. However, as Ohio law currently stands, that commercial tenant has no statutory right to challenge an excessive or non-uniform valuation of the property it occupies and maintains. Moreover, that commercial tenant cannot file a counter complaint to defend a proper assessment from a complaint filed by a school board. Many commercial leases transfer the right to contest the valuation of that property to the commercial tenant. However, to exercise that right, the commercial tenant must file a complaint in the name of the property owner with the local board of revision, which is the beginning of the property tax challenge process.

This unnecessary step complicates and confuses both the process and the participants challenging, defending, and hearing the tax valuation case. Many times, a commercial tenant unassumingly files the complaint in their own name. As Ohio law currently stands, the commercial tenant's complaint would be dismissed as being jurisdictionally defective because the commercial tenant is not expressly authorized to file a complaint by R.C. 5715.19. A dismissal means the commercial tenant must now pay another full year of property taxes that it reasonably believes are unfair and non-uniform without having had the opportunity to present its case. When a case is dismissed under such circumstances, the commercial tenant must then wait an entire year until the next filing period is available. Then, only after waiting many more additional months, can a commercial tenant correct its past mistake and file a new complaint in the name of the deeded property owner.

Simply put, Ohio should not knowingly and intentionally require a legitimate complainant to file in another's name when all the respective parties have placed the rights and responsibilities of owning and maintaining certain real estate, including those that relate to paying real property taxes, with the commercial tenant. The General Assembly simply cannot allow this unfairness to continue.

Legislative language has been drafted to properly and narrowly addresses this unfairness.

### **Concluding Comments**

The drafted amendment language addresses and corrects an ongoing issue. The amendment recognizes the realities of the commercial real estate industry and provides much needed fairness to the real property tax valuation process.

Members of the Committee, this concludes my prepared remarks. I appreciate your time and attention to this issue and the presented solution. On behalf of commercial real estate tenants throughout Ohio, I would be happy to answer any of your questions.