

**PROPONENT TESTIMONY
OHIO HB 751**

Before the House Ways and Means Committee

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December 3, 2020

Chairman Merrin, Vice Chairman LaRe, Ranking Member Rogers and members of the House Ways & Means Committee, thank you for allowing me to submit written testimony in support of Ohio House Bill 751. 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.

Siegel Jennings has been serving the interests of Ohio's taxpayers for over 40 years. Our firm and team focus 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.

HB 751 would provide commercial real estate tenants full and fair access to Ohio's valuation process by allowing commercial or industrial tenants of a property the right to file in the tenant's own name if the lease requires the tenant pay all real estate taxes for the leased property, enabling full and fair access to challenge unfair or non-uniform real property tax assessments. Further, HB 751 clarifies that post tax lien date information related to COVID-19 be heard and considered in tax valuation cases for tax year 2020.

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.

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.

HB 751 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.

Post Tax Lien Date COVID-19 Impact Consideration

Under current Ohio law, commercial properties would be valued at peak market prices with no recognition of economic realities, as if the pandemic and Stay at Home Order never occurred. HB 751 would temporarily require County BORs to permit property owners to have property valued that accounts for adjustments to the property's value after the January 1, 2020 tax lien date, in order to consider any reduction in value caused by the pandemic or state orders.

HB 751 addresses and corrects an ongoing issue by recognizing the realities of the commercial real estate industry and provides much needed fairness to the real property tax valuation process,

especially in times of unprecedented economic conditions resulting from the COVID-19 pandemic. As you are considering policies to alleviate the financial strain on Ohio's economy and provide relief for our state's businesses, we ask that you consider temporarily strengthening provisions already set forth in Ohio law. The Stay-at-Home Order has instantaneously and dramatically impacted hotels, restaurants, retail, movie theaters, and many other property types, and continues to impact them. Without cash flow from paying customers, property owners have no ability to pay their two largest expenses: mortgage payments and real estate taxes.

Members of the Committee, I appreciate your time and attention to this issue and the presented solution in HB 751, and I urge your support for this legislation. On behalf of commercial real estate tenants throughout Ohio, I would be happy to answer any of your questions. I am available at any time to discuss these proposals and can be reached on my cell (216) 469-9135 or via e-mail at kjennings@siegeltax.com.