

# The Columbus Dispatch

## REAL-ESTATE

# 'Politically deaf': Central Ohio schools navigate law restricting tax value challenges



**Jim Weiker**

The Columbus Dispatch

Published 6:01 a.m. ET June 1, 2023 | Updated 3:31 p.m. ET June 7, 2023

In January, Kalyan Lingam's investment group paid a little over \$5 million for 58 condominiums and 20 garages in the Wellington Woods complex on the East Side.

A few months later, the group, KSI Realty Holdings, received notice that Franklin County's \$3.94 million assessed value of the properties was being challenged because it was lower than the purchase price.

In previous years, that would have been fairly routine — school districts have for years challenged property assessments in an effort to maximize property tax revenue.

**More:** What Franklin County homeowners need to know about 'historic' rise in property values

But a new state law sharply restricting the ability of schools to challenge property tax assessments makes this year anything but usual.

## A loophole or legal strategy?

In addition to Columbus City Schools filing a challenge to Wellington Woods' value, so did a property owner in the county, Stanley Bahorek, who happens to be treasurer of the Columbus school district. One day after Bahorek filed, the district filed a counter complaint, which allowed the district to become party to his case.

For Lingam and others, the move, repeated in hundreds of challenges in Franklin and Delaware counties, represents a blatant effort to get around the law, commonly referred to as HB 126.

"HB 126 was specifically designed to combat this type of situation," said Lingam, a Powell doctor. "With the loophole of a private citizen who coincidentally happens to be the treasurer of the school board, this completely bypassed HB 126. ... It just really violated the spirit of what the bill intended."

**More:** What Franklin County homeowners need to know about 'historic' rise in property values

If his investment group loses its case, it will have to pay more than \$30,000 more in taxes from last year, when it never even owned the property, said Lingam's lawyer, Charles Bluestone, managing attorney of Bluestone Law Group.

For the law firm behind the complaint, Rich & Gillis Law Group, the strategy represents a necessary way to make sure properties are valued accurately for taxing purposes. A Columbus City Schools representative said no one from the district was available this week to discuss the issue, and directed a reporter to a lawsuit the district filed against HB 126.

"The law (HB 126) didn't change the fundamentals of Ohio's real property tax system," said Mark Gillis, a partner in the law firm. "That means for every undervalued property, it's a tax increase for everyone else, so those that aren't valued at true value get a tax break at the expense of other properties."

Gillis notes that Ohio law allows any taxpayer in a county to challenge property values, no matter whether they work for the district or not.

"The issue is the value of the property, not who filed the complaint," Gillis said. "Those complaints he filed in his individual capacity, not as treasurer to the school."

Rich & Gillis used a similar strategy in Licking County, where complaints were filed on behalf of property owner Richelle Thoburn, another attorney with Rich & Gillis.

Bluestone says filing through Bahorek and Thoburn amounts to simply another way for school districts to challenge values, something the law was designed to restrict.

"It's disappointing that many of the school districts in central Ohio decided to employ the straw man scenario rather than respecting the spirit of House Bill 126 and the General Assembly's clear message," said Bluestone, whose firm defends property owners against assessment challenges. "It was politically deaf not to hear the message."

## 'HB 126 is not working as intended'

Either way, the Wellington Woods case illustrates the chaotic landscape of property value challenges left by HB 126.

As expected, the law dramatically reduced the number of property value complaints this year. But it has also thrown many of those complaints into limbo and led to at least one major lawsuit, in addition to prompting the inventive legal efforts to outmaneuver the law.

The sponsor of the bill, State Rep. Derek Merrin, R-Monclova, did not respond to a Dispatch request for comment on the law's impact. But others say the law needs work.

"The bottom line is, HB 126 is not working as intended," said Donald Mottley, a former Republican state representative from the Dayton area who now practices tax law in the Columbus office of Taft law firm. "A law that was intended to provide clarity and simplicity has not achieved that at all. ... If the statute were allowed to work as designed, there would be almost no complaints filed."

Mottley added that if a school official can file challenges that a school board can then become party to, "HB 126 doesn't work at all."

## Law causes complaints to plummet

Among other things, HB 126 prohibits school districts from filing complaints about property values unless the property sold for at least 10% and \$500,000 above the assessed value. Because schools have traditionally been by far the biggest initiators of the complaints in Ohio's biggest counties, the law has led to a sharp drop in complaints, which had to be filed by March 31.

In Franklin County, the number of complaints filed by school districts fell from 1,883 last year to 409 this year, said Franklin County Auditor Michael Stinziano.

"This has had a significant impact," Stinziano said. "It has significantly shifted the board of revision process."

In Montgomery County, the total number of board of revision appeals fell from 1,255 last year to 370 this year, and the number filed by school boards fell from 829 to 28, said Montgomery County Auditor Karl Keith.

"This is the lowest number of filings we've ever had," said Keith, past president of the County Auditor's Association of Ohio.

In many counties, including some large ones such as Lucas, Lake, Mahoning and Trumbull, no complaints were filed at all this year, according to records collected by Bluestone's firm.

## **Hundreds of complaints on hold**

In addition, many of the complaints that counties have received from school districts have been tossed out or are in limbo because of a provision of the law that prohibits sale prices on or after Jan. 1 of the prior year from being used as evidence of value, because the assessed value is meant to reflect a property's value on that date, not a present-day value.

Lingam notes that the challenge to the value of Wellington Woods is based on a sales price from this January, more than a year after when sales prices are allowed as evidence.

In Franklin County, for example, 368 of the 409 complaints are on hold because they are based on sale prices after Jan. 1, 2022, said Stinziano.

Rich & Gillis, which is challenging the constitutionality of HB 126 on behalf of several school districts, continued to use recent sales prices as evidence of value in the cases it filed this year. Mark Gillis argued that HB 126 creates an uneven playing field by allowing property owners seeking a reduction in value to use a sales price after Jan. 1, 2022, but prohibiting those seeking an increase in value from using a recent sales price.

The result, he argues, is a windfall for owners of undervalued properties.

As an example, Gillis said the Meridian at Grandview Apartments, on West Fifth Avenue, are assessed at \$62.5 million, but sold in September for \$109 million. Rich and Gillis, filing on behalf of Bahorek, is challenging the value, even though HB 126 would prohibit that sales price from being entered into evidence because it is too recent.

"That's a subsidy of \$850,000 in taxes that other taxpayers must pay," he said.

## **Law challenged in court**

In March, Rich & Gillis filed a suit in Franklin County challenging the constitutionality of HB 126. The suit was filed on behalf of several area school districts including Columbus, Hilliard, Licking Heights, South-Western, Westerville, and Worthington.

**More:** Columbus City Schools says it would lose millions if state tax legislation becomes law

"I'm certainly hopeful the courts see the violations and look to correct what would be an improper shifting of the burden and eliminate what is in effect corporate welfare for the few," said Gillis.

Ohio Attorney General David Yost responded with a motion to dismiss the case.

The legal uncertainty is making investors such as Lingam nervous.

"All it's doing is negatively impacting local investment in Columbus, so it's going to drive investors away," Lingam said. "I've spoken with other investors and they're quite frustrated. We're all sort of frustrated."

County auditors, who are charged with applying the law, are also looking for some clarity.

"I would say buckle up, there remain lots of unknowns," Stinziano said.

*jweiker@dispatch.com*

*@JimWeiker*