

Ohio Senate Ways & Means Committee Proponent Testimony on HB 126

December 7, 2021

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Chairman Blessing, Vice-Chair Roegner, Ranking Member Williams, and members of the Senate Ways and Means Committee: thank you for the opportunity to speak to you this morning on behalf of the Downtown Cleveland Alliance.

My name is Michael Deemer, and I am President and CEO of the Downtown Cleveland Alliance (DCA), a nonprofit corporation dedicated to making Downtown Cleveland the region's most compelling place to work, live, play, and invest. DCA manages the Downtown Cleveland Special Improvement District, through which property owners have committed \$56 million over the last 15 years to create a clean, safe, welcoming, and business and resident friendly environment.

I am here again today as a proponent of House Bill 126 because our stakeholders need relief. Before addressing our support of the bill, I would first like to acknowledge that our organization is a strong supporter of school funding reform and our public schools. The Cleveland Municipal School District has made substantial progress with graduation rates and job and college readiness, and building upon and accelerating this success is essential to building Downtown Cleveland into the inclusive, 24/7 hub of a welcoming global city. Downtown Cleveland cannot be what we want it to be without high-quality public education.

We also recognize the broader context of school funding challenges that the issue of property tax valuations and challenges implicates. Since the Committee last met, we have explored best practices from other jurisdictions that could fit Ohio's circumstances. First, I wanted to provide additional context for the issue that House Bill 126 seeks to address. Second, I will outline a proposed solution that advances our shared goals of providing greater certainty and uniformity, while balancing the rights and interests of governmental entities and taxpayers.

The issue before us is not new. About seven years ago, the Ohio General Assembly attempted to fix the issue of uniformity in property tax valuations. The legislature passed a change to ORC 5713.03 to make clear that in determining property value the County Auditor should seek to establish "the true value of the fee simple estate, as if unencumbered." That simply means property valuation should be based on the value of the "bricks, sticks, and land."

Unfortunately, through subsequent challenges by attorneys representing Ohio school boards, an Ohio Appellate Court essentially rewrote the meaning of this language in direct contradiction of the legislature's clear and unambiguous intent. It interpreted "as if unencumbered" to mean that if the subject property is encumbered by mortgages, leases, etc., then the appraiser adjusts for the effects of those encumbrances." The result is a vicious cycle of complaints, counterclaims, and appeals that never seems to end.

Districts make no attempt to conduct uniform appraisal practices on all properties with the goal of fair assessment. Rather, they over-zealously target individual properties which results in valuations that are disproportionately high compared to similar properties through the county and unnecessarily digs into the private information and financial statements. This results in violating State of Ohio uniformity laws, chilling real estate investment, invading privacy, and usurping the County Auditor's role.

We propose addressing this uniformity problem by adding an equity statute to the Revised Code to provide a common level of assessment and determinations of complaints. This approach is based upon Texas and Illinois property tax code – both of which provide relief to property owners on the grounds of unequal appraisal.

This approach would create guardrails for Ohio taxpayers so governmental entities cannot single out individuals for intensive scrutiny and increase taxpayers' assessments beyond that of their peers.

This solution is attractive because it would protect and balance the interests of districts and other governmental entities and taxpayers:

- It would not limit districts from participation in the process or limit their ability to protect their tax base from alleging underassessment by the County Auditor. Districts would still be able to defend their tax base and file initial complaints.
- Taxpayers would be able defend against non-uniform taxation by based on an average valuation of comparable properties or by proving the fee simple as if unencumbered market value of the subject property.

Under this approach, any person filing a valuation complaint or counterclaim with a county board of revision (BOR) would be required to submit to the county auditor a list of a reasonable number of comparable properties in the county.

The role of the BOR would be to:

- Determine whether the property's valuation for tax purposes is less than, more than, or equal to the average valuation of comparable properties in the county for tax purposes for the tax year that is the basis of the complaint.
- Maintain discretion to determine the average valuation but be limited to using only those properties submitted with the complaint and, if applicable, counterclaim.
- Dismiss a complaint or counterclaim filed by any person other than the owner, a tenant, or an individual representing the owner or tenant if the property's valuation is more than or equal to the average valuation of comparable properties in the county.
- Reduce the valuation of a property to a value not exceeding the average valuation of comparable properties if that average valuation is lower, when a complaint or counterclaim is filed by the owner, a tenant, or an individual representing the owner or tenant

I believe this process would bring much needed uniformity and certainty to process of determining property valuations for tax purposes, while protecting the interests of our schools.

The last time I appeared before this committee, I was asked about “drop-down” limited liability corporations (LLCs) and I committed to follow-up with the committee, so I would like to conclude my testimony with a few words about LLCs.

There are many reasons that businesses form LLCs, not the least of which is to protect personal assets from business-related liability. The term “drop-down” is one used by accountants to describe certain types of LLCs.

I understand the question about LLCs to be about a purchaser would decide to purchase an LLC rather than a property. There are many reasons that this occurs. The purchaser may want to, for example:

- Adhere to historic preservation tax credit requirements
- Acquire the entire commercial entity that operates a property
- Enter into an existing partnership where some of the partners remain in the transaction

While the uniformity approach I am supporting today would not eliminate the need for LLC transfers in these types of situations, it would remove any incentive for a purchaser to attempt to utilize this process to limit property tax liability.

I appreciate the opportunity to share these ideas and thoughts on behalf of Downtown Cleveland Alliance. I respectfully urge the committee’s support of this proposal and welcome your questions at this time.