

Publications

Analysis of Appeals of BTA Decisions

Related Attorneys

Nicholas M.J. Ray

Scott J. Ziance

Anthony L. Ehler

Lauren M. Johnson

Steven L. Smiseck

Hilary J. Houston

Related Services

Property Tax Management

Taxation

AUTHORED ARTICLE | Winter 2016

Originally published in *The Evaluator*.

During 2015, the number of appeals to the Ohio Supreme Court from decisions of the Ohio Board of Tax Appeals (BTA) declined from historical highs in 2014, but are still significantly above appeals from prior years. The following are the historic number of appeals filed to the Ohio Supreme Court from a BTA decision:

Year: # of Appeals:

2009 32

2010 42

2011 21

2012 42

2013 55

2014 152

2015 106

While the volume of cases decided by the BTA accounts for some of the increase in appeals, the high amount of appeals in calendar year 2015 still does not account for more than double the appeals to the court from a historical perspective. The following are some of the potential additional causes for the increase in appeals:

1. The Supreme Court has issued several decisions that make it clear that on appeal, the board of education (BOE) has an affirmative burden of proof at the BTA. The BOEs continue to fight this "heightened" burden, in most cases unsuccessfully, which has resulted in more appeals by BOEs to the Court.
2. When we previously reported on trends on appeals to the Court we stated that the Ohio Supreme Court has become more willing to overturn decisions of the BTA. This trend hasn't continued as the

Court is more evenly split on how it has decided appeals from the BTA in 2015. The BTA's analysis and decisions have included more analysis likely in response to the Court's admonitions and willingness to reverse decisions or remand cases back to the BTA for a full analysis of the entire record and the legal arguments advanced by the parties.

3. Mediation. This continues to be an on-going issue. Despite the mandate from BTA Reform (H.B. 138) that the BTA reinstate its mediation program, the BTA has not implemented a meaningful mediation program. As we previously stated, the Ohio Supreme Court does provide a meaningful mediation program. Appeals are screened and many real property tax cases are routinely referred to mediation. Alternatively, parties can request mediation. Additionally, the Court's mediation program has permitted parties to finalize settlements that were agreed to at the BTA, but that the parties were unable to finalize prior to the BTA issuing an order dismissing an appeal for failure to submit the settlement documentation by its deadline.

We will continue to monitor how the appeal trends impact cases at the BTA and how the Supreme Court decisions and other factors affect the volume of appeals from the BTA to the Supreme Court going forward. As always, we welcome your thoughts and questions on these important matters. Please feel free to contact a member of the Vorys real property tax team to discuss.