

**GOLDBERG COMPANIES, INC., TRUSTEE, APPELLANT, v. COUNCIL OF THE CITY
OF RICHMOND HEIGHTS, APPELLEE.**

[Cite as *Goldberg Cos., Inc. v. Richmond Hts. City Council*, 1997-Ohio-34.]

Appeal dismissed as improvidently allowed.

(No. 96-84—Submitted April 16, 1997—Decided June 18, 1997.)

APPEAL from the Court of Appeals for Cuyahoga County, Nos. 68291 and 68292.

Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A., Sheldon Berns and Benjamin J. Ockner, for appellant.

R. Todd Hunt, Director of Law; *Walter & Haverfield, P.L.L.*, and *Frederick W. Whatley*, for appellee.

John E. Gotherman and *Malcolm C. Douglas*, urging affirmance for *amici curiae*, Ohio Municipal League and Ohio Municipal Attorneys Association.

Terrence L. Brennan, urging affirmance for *amicus curiae*, Cuyahoga County Law Directors Association.

{¶ 1} The appeal is dismissed, *sua sponte*, as having been improvidently allowed.

MOYER, C.J., RESNICK, F.E. SWEENEY and LUNDBERG STRATTON, JJ., concur.

DOUGLAS, J., dissents.

PFEIFER and COOK, JJ., dissent and would reverse the judgment of the court of appeals.
