

STATE OF OHIO                    )  
  )ss:  
COUNTY OF LORAIN        )

IN THE COURT OF APPEALS  
NINTH JUDICIAL DISTRICT

CMK, Ltd., et al.

Appellants

v.

BOARD OF COUNTY COMMISSIONERS, et al.

Appellees

C.A. No. 02CA008185

#### JOURNAL ENTRY

{¶1} Appellants have moved this court to reconsider our decision, which was journalized on August 20, 2003 and which affirmed the decision of the Lorain County Court of Common Pleas, which upheld the Lorain County Board of Commissioners' decision to deny appellants' petition to annex land. The exhibits from the trial court were not included with the record on appeal; therefore, this Court presumed the validity of the judgment of the trial court. *CMK, Ltd. v. Bd. of Cty. Commrs.*, 9th Dist. No. 02CA008185, 2003-Ohio-4388, at ¶13. Appellees have not responded to the motion.

{¶2} In determining whether to grant a motion for reconsideration, a court of appeals must review the motion to see if it calls to the attention of the court an obvious error in its decision or if it raises issues not considered properly by the court. *Garfield*

*Hts. City School Dist. v. State Bd. of Edn.* (1992), 85 Ohio App.3d 117. Appellants argue that the decision should be reconsidered because the trial court, and not appellants, erred in failing to transmit the trial court exhibits to the clerk of the court of appeals.

{¶3} Because the trial court had possession of the exhibits, but failed to deliver them to the clerk for timely transmission to this Court, we find that the motion for reconsideration in this case is well taken. The motion is granted.

{¶4} The decision and journal entry entered in this case on August 20, 2003, is hereby vacated and the appeal reinstated. The Court shall reconsider its decision and issue a new judgment in due course.

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Judge

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Judge

A copy of this journal entry is being mailed to the following:

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Judge Lynett M. McGough, Lorain County Court of Common Pleas, 308 2nd Street, 2nd Floor, P.O. Box 749, Elyria, OH 44036-0749.