In the
Supreme Court of Ohio

OLENTANGY LOCAL SCHOOL DISTRICT BOARD OF EDUCATION,	:	Case Nos. 2024-0814 & 2024-0815
	:	On Appeal from the
Appellant,	:	Delaware County
	:	Court of Appeals,
v.	:	Fifth Appellate District
	:	
DELAWARE COUNTY BOARD OF REVISION, ET AL.,	:	Court of Appeals
	:	Case Nos. 23 CAE 09 0057 & 23 CAE 09 0061
Appellees.		

MERIT BRIEF OF *AMICUS CURIAE* OHIO ATTORNEY GENERAL DAVE YOST IN SUPPORT OF APPELLEES

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INTRODUCTION

Appellate standing requires statutory authorization. The General Assembly decides who has the right to appeal administrative decisions and the procedural mechanics for exercising that right—the when, where, and how of an appeal. As this Court made clear over two decades ago, "[t]he right to appeal an administrative decision is neither inherent nor inalienable; to the contrary, it must be conferred by statute." *Midwest Fireworks Mfg. Co. v. Deerfield Twp. Bd. of Zoning Appeals*, 91 Ohio St. 3d 174, 177 (2001).

In 2022, the General Assembly exercised that authority to restrict the sole appellate pathway available to a school district board of education that seeks to challenge a board of revision's tax valuation decision on private property. Through H.B. 126, the General Assembly amended R.C. 5717.01 to allow boards of education to appeal to the board of tax appeals only if they own the property at issue. That legislation brought R.C. 5717.01 into parity with its companion appeals provision, R.C. 5717.05, which governs tax appeals to courts of common pleas. All agree that under R.C. 5717.05, boards of education may appeal tax valuation decisions to courts of common pleas only if they own the property at issue.

Despite the limitations found in R.C. 5717.01 and .05, Plaintiff Olentangy Local School District Board of Education ("Olentangy") appealed several board of revision decisions involving property it did not own to the court of common pleas. Olentangy argues that by closing the door on appeals to the *board of tax appeals*, the General Assembly silently

opened a back window to appeals to the *courts of common pleas* under R.C. 2506.01, a general administrative-appeal provision—even though R.C. 5717.05 has specifically prohibited those appeals for over 80 years. That incongruous result is wrong for two reasons.

First, R.C. 2506.01 does not give boards of education standing to appeal boards of revision decisions regarding property they do not own. Revised Code 2506.01 grants a broad right to appeal "every final order" by a political subdivision to the courts of common pleas. R.C. 2506.01(A). But it defines "final order" as one that "determines" the "rights, duties, privileges, benefits, or legal relationships" of a "person." R.C. 2506.01(C). Common-law principles, the weight of this Court's precedent, and the historical context of R.C. 2506.01 point the same way: a tax valuation decision "determines" the property owner's "rights" and "duties" but does not directly affect board of education's rights. Olentangy's reliance on an outlier decision, *Willoughby Hills v. C. C. Bar's Sahara, Inc.*, 64 Ohio St. 3d 24 (1992), is unpersuasive because that case did not consider subsection C's textual limitation on the "every final order" language in R.C. 2506.01(A).

Second, if R.C. 2506.01 *does* grant boards of education standing to appeal in this context, then it squarely conflicts with R.C. 5717.05. That provision grants property owners alone the right to appeal board of revision valuation decisions to courts of common pleas. The General Assembly has instructed that when two statutory provisions clash, the more specific provision controls unless the general provision is both more

recent and shows a "manifest intent" to override the specific provision. R.C. 1.51. Olentangy has not shown any such manifest intent in the text of R.C. 2506.01.

STATEMENT OF *AMICUS* INTEREST

The Attorney General is Ohio's chief law officer and "shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state is directly or indirectly interested." R.C. 109.02. He is interested in defending Ohio's sovereign legislative and executive powers by promoting the full application of duly enacted Ohio laws. *Cf. Cincinnati v. Fourth Nat'l Realty, L.L.C.*, 2020-Ohio-6802, ¶¶9–10; R.C. 2721.12(A).

STATEMENT OF THE CASE AND FACTS

The ultimate issue in this appeal is whether the General Assembly has authorized boards of education to appeal boards of revision valuation decisions on private property. Answering that question requires the Court to consider R.C. 2506.01 and 5717.05, two distinct appeals provisions that are housed in different chapters of the Revised Code.

I. Revised Code 2506.01 is a catch-all administrative appeal provision.

Revised Code Chapter 2506 governs appeals of administrative decisions at the township and municipal level. It is situated within Title 25 of the Revised Code, which covers appellate courts and procedure more generally.

Revised Code 2506.01 authorizes appeals of administrative decisions made by political subdivisions and outlines that appeal right in three subsections. First, it broadly

permits "review[] by the court of common pleas" of "every final order, adjudication, or decision of any officer, tribunal, authority, board, bureau, commission department, or other division of any political subdivision of the state." R.C. 2506.01(A). Second, it stipulates that this appeal right is non-exclusive and "is in addition to any other remedy of appeal provided by law." R.C. 2506.01(B). Finally, it limits the right to appeal by defining "final order, adjudication, or decision." Relevant here, an order, adjudication, or decision is final and appealable under this section only if it "determines rights, duties, privileges, benefits, or legal relationships of a person" and there is no separate right to appeal "granted by rule, ordinance, or statute to a higher administrative authority" that includes "a right to a hearing." R.C. 2506.01(C).

The General Assembly enacted R.C. 2506.01 in 1957, primarily to "provide relief" to citizens subject to zoning board decisions. *See* Marshall J. Wolf and Donald M. Robiner, *Ohio Revised Code Chapter 2506: Judicial Review of Administrative Rulings*, 22 Clev. St. L. Rev. 229, 232 (1973). Before the General Assembly enacted R.C. 2506.01, there was no general right to appeal the administrative decisions of a political subdivision to Ohio courts. Local boards and commissions were often "devoid of guarantees of due process" to individual persons, *id.* at 229, and zoning boards were particularly problematic, *id.* at 231. The General Assembly responded by providing a path to judicial review for citizens who were otherwise in an "impossible situation." *Id.* at 232. Since its enactment, the General

Assembly twice amended R.C. 2506.01 in 1987 and 2006; neither amendment significantly altered the provision's substance.

II. Revised Code 5717.05 governs appeals of boards of revision tax valuation decisions to courts of common pleas.

Turn next to R.C. 5717.05. That section is part of Title 57 of the Revised Code, which covers taxation. Chapter 5715 addresses boards of revision, which have jurisdiction over complaints filed against county auditors' property tax assessments. R.C. 5715.19(A)(1)–(2). Chapter 5717, in turn, concerns tax appeals—including appeals from boards of revision decisions on property valuations. Chapter 5717 is a "statutory scheme," *Marysville Exempted Vill. Sch. Bd. of Educ. v. Union Cnty. Bd. of Revision*, 2024-Ohio-3323, ¶18, that outlines who may appeal, where, when, and how, *see generally*, Revised Code Chapter 5717. It is, in other words, a *comprehensive* statutory scheme.

Under Chapter 5717, there are two appellate paths potentially available to challenge board of revision decisions. First, R.C. 5717.01 authorizes appeals to the board of tax appeals. It provides:

> An appeal … may be taken to the board of tax appeals … by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the Revised Code to file complaints against valuations or assessments with the auditor, *except that a subdivision that files an original complaint or counter-complaint under that section with respect to property the subdivision does not own or lease may not appeal the decision of the board of revision* with respect to that original complaint or counter-complaint.

R.C. 5717.01 (emphasis added). "Legislative authority" includes a school district board of education. R.C. 5715.19(A). This right to appeal was originally broader. Until recently, R.C. 5717.01 allowed appeals to the board of tax appeals regardless of the litigant's relationship to the property being valued. *See* R.C. 5717.01 (2021). In 2022, the General Assembly added the italicized language limiting the appellate remedy for political subdivisions, including the "legislative authority" of those subdivisions (such as local boards of education).

Second, and most relevant to this appeal, R.C. 5717.05 governs tax appeals to courts of common pleas. The key portion of R.C. 5717.05 provides:

> As an alternative to the appeal provided for in section 5717.01 of the Revised Code, an appeal from the decision of a county board of revision may be taken directly to the court of common pleas of the county *by the person in whose name the property is listed or sought to be listed for taxation*.

R.C. 5717.05 (emphasis added). By its own terms, R.C. 5717.05 is an "alternative" to the appellate remedy provided earlier in R.C. 5717.01. Like that provision, R.C. 5717.05 limits the class of litigants authorized to appeal under this provision. Under that statute, only the property owner may appeal to courts of common pleas. *See* R.C. 5717.05.

This is not a new development; R.C. 5717.05 has been a part of the Revised Code for over 80 years. At its enactment in 1939, R.C. 5717.05 (then codified as G.C. 5611-4) permitted appeals to courts of common pleas by "the county auditor, or by any other person who was a party to the proceeding before the county board of revision." Am.Sub.S.B. 159, 93rd General Assembly, vol.118, 344, 357 (1939). Just two years later,

the General Assembly amended R.C. 5717.05 to limit the right to appeal to the listed property owner. S.B. 213, 94th General Assembly, vol.119, 442 (1941). That language is substantively identical to the relevant language in the current version. R.C. 5717.05 has remained unchanged since its last amendment in 1989, which did not substantively alter the relevant portion of the text.

III. The General Assembly further limits tax appeals by boards of education.

In 2022, the General Assembly amended R.C. 5715.19 and 5717.01 to further limit the role of boards of education in the property valuation complaint and appeal processes. Am.Sub.H.B. 126, 134th Gen. Assembly (2022). That legislation, H.B. 126, responded to some boards of education's "predatory" practice of challenging property owners' tax appraisals as a matter of course. Ohio House Floor Debate on H.B. 126, 134th Gen. Assembly, at 35:15-36:00 (Apr. 15, 2021) (statement of Rep. Merrin, bill sponsor). Both proponents and opponents of H.B. 126 agreed that "bad actor[]" school districts were taking "advantage" of the tax valuation complaint and appeal system. *Id.*; Ohio Senate Floor Debate on H.B. 126, 134th Gen. Assembly, at 36:56-37:20 (Dec. 15, 2021) (Sen. Antonio statement in opposition). By filing complaints alleging "facially incorrect and vastly higher property valuations," these school boards often forced property owners to settle at increased tax valuations to avoid legal costs and protracted litigation. House Floor Debate, at 35:15-36:40 (Rep. Merrin statement); Senate Floor Debate, at 31:20-31:50 (Sen. Blessing statement). H.B. 126 aimed to protect property owners by "impos[ing]

severe restrictions on the participation of boards of education in ad valorem real property tax proceedings." *Olentangy Loc. Sch. Dist. Bd. of Educ. v. Del. Cnty. Bd. of Revision*, 2024-Ohio-1564, ¶15 (5th Dist.) ("App.Op.").

As amended by H.B. 126, R.C. 5715.19 now restricts boards of education's involvement both in the initial administrative process before boards of revision and in the appeal process before the board of tax appeals. It prohibits boards of education from filing complaints challenging valuations of property they do not own or lease, unless narrow exceptions apply (such as the property being sold in an arm's length transaction before the tax lien date for that tax year, among other requirements). *See* R.C. 5715.19(A)(2), (6). And it allows boards of education to file counter-complaints only if the complaint alleges a valuation error of "at least" $17,500 in taxable value. R.C. 5715.19(B).

The General Assembly also amended R.C. 5717.01 and limited the ability of boards of education to appeal to the board of tax appeals. It permitted boards of education to appeal only when they own or lease the property at issue. R.C. 5717.01. That amendment aligned R.C. 5717.01's appellate remedy with the limited appeal right under R.C. 5717.05, which H.B. 126 left undisturbed. Now, boards of education may appeal to either the board of tax appeals or courts of common pleas only when they own the property at issue.

IV. The Fifth District held that R.C. 2506.01 does not give boards of education standing and that R.C. 5717.01 governs tax appeals to common pleas courts.

In 2022, Plaintiff Olentangy Local School District Board of Education filed several complaints challenging valuations of property it did not own or lease, notwithstanding the new limitations imposed by the General Assembly. App.Op. at ¶4. The board of revision dismissed these complaints as unauthorized because Olentangy did not satisfy a statutory exception to the general prohibition on such complaints. *Id.* at ¶5 (citing R.C. 5715.19(A)(6)(a)(i)). Olentangy appealed the dismissals to the courts of common pleas, claiming appellate standing under R.C. 2506.01. *Id.* at ¶6. The court of common pleas held that Olentangy lacked statutory standing to file an appeal under that provision and dismissed the appeals. *Id.* at ¶9.

The Fifth District agreed. Applying well-established canons of construction, the Court first held that the General Assembly "made no changes to R.C. 5717.05," which "could not be clearer … that the right to appeal to the common pleas court" rests "solely with the property owner." *Id.* at ¶¶28–32. The General Assembly's 2022 amendment to R.C. 5717.01 did not affect R.C. 5717.05's existing limits on appeals to courts of common pleas. *Id.* at ¶28.

The Court then held that Olentangy could not circumvent those limits by appealing under R.C. 2506.01, for two reasons. As a threshold matter, R.C. 2506.01 did not give boards of education standing to appeal these decisions. *Id.* at ¶39. Even if it did, the

Court held that the general administrative appeal provision (R.C. 2506.01) must give way to Chapter 5717's specific provisions governing tax appeals. *Id.* at ¶¶41–44.

ARGUMENT

<u>*Amicus Curiae* Ohio Attorney General's Proposition of Law I:</u>

> *Revised Code 2506.01 does not grant boards of education standing to appeal boards of revision valuation decisions on private property.*

I. Revised Code 2506.01's appellate remedy is limited to persons whose legal rights are directly affected by the administrative order appealed.

Boards of education have no automatic right to an administrative appeal. "The right to appeal an administrative decision is neither inherent nor inalienable; to the contrary, it must be conferred by statute." *Midwest Fireworks Mfg. Co.*, 91 Ohio St. 3d at 177; *see also In re Petition for Incorporation of the Vill. of Holiday City*, 70 Ohio St. 3d 365, 369 (1994). Because the General Assembly decides whether to grant a statutory appeal right in the first instance, it has discretion over who receives the right, and when and how it may be exercised. Nothing requires the General Assembly to bestow a discretionary appeal right equally among all litigants with some interest in an administrative decision. *See Appeal of Bass Lake Cmty., Inc.*, 5 Ohio St. 3d 141, 144 (1983) (*per curiam*), *superseded by statute*; *see also Holiday City*, 70 Ohio St. 3d at 370.

The General Assembly did not provide an unlimited appeal right when it enacted R.C. 2506.1. R.C. 2506.01(C) authorizes the appeal of only those administrative orders that "determine" the "rights, duties, privileges, benefits, or legal relationships" of a "person." As an initial matter, it is doubtful that a political subdivision qualifies as a "person"

within the meaning of R.C. 2506.01(C). *See* R.C. 5715.19(A), (A)(1)–(2); *see also Thaxton v. Medina City Bd. of Educ.*, 21 Ohio St.3d 56, 57 (1986). Beyond that hurdle, this Court has read subsection C's limitation on the appeal right to incorporate the common law principle that a party generally must be involved in the relevant administrative proceedings *and* that the administrative order must directly affect them for that party to have standing to appeal it. *See below* at 12. Olentangy does not satisfy the second requirement.

It is "well settled that only parties to the litigation can appeal from the judgment of a court." *Roper v. Bd. of Zoning Appeals, Richfield Twp., Summit Cnty.*, 173 Ohio St. 168, 173 (1962). Even in the context of administrative proceedings, this Court has suggested that some involvement in the proceedings is a predicate for appellate standing to then challenge the results of those proceedings. *See, e.g., id.* at 173–74; *see also Schomaeker v. First Nat'l Bank of Ottawa*, 66 Ohio St. 2d 304, 311–12 (1981).

At the same time, involvement in the initial administrative process alone is insufficient. It is a "fundamental" principle that "appeal lies only on behalf" of an "*aggrieved* party whose *substantial* right has been affected by the questioned order." *Ohio Cont. Carriers Ass'n v. Pub. Utilities Comm'n*, 140 Ohio St. 160, 161, 163 (1942) (emphasis in original). An appellant must "show that *his rights* have been invaded" by an administrative decision, and that his interest in it is "'immediate and pecuniary.'" *Id.* (emphasis in original; quoting 2 American Jurisprudence 941, section 150). This Court

has interpreted R.C. 2506.01(C) as incorporating that fundamental requirement. "In order to bring an R.C. Chapter 2506 direct appeal of an administrative order, plaintiff must be a person directly affected by the decision." *Schomaeker*, 66 Ohio St. 2d at 311–12; *see also Holiday City*, 70 Ohio St. 3d at 371; *Bass Lake*, 5 Ohio St. 3d at 144.

While Olentangy was involved in the administrative complaint process before the board of revision (despite the statutory bar on its involvement), it was not directly affected by the board's affirmance of tax valuations on property that Olentangy does not own. Olentangy's indirect interest in the ultimate valuation of another's property does not support a right to appeal the board's order under R.C. 2506.01.

A. Boards of revision valuation decisions affect the legal rights and duties of property owners.

Precedent interpreting R.C. 2506.01 and related administrative appeal provisions provide guidance on when an order "determine[s]" a person's legal "rights." Most of this Court's R.C. 2506.01 decisions involve zoning decisions. The Court routinely has held that R.C. 2506.01 authorizes appellate standing for owners whose property is the subject of such decisions or who own adjacent property. In one of the earliest decisions interpreting R.C. 2506.01, the appellant "came within the class of 'specified' persons referred to in Section 2506.01" because the zoning decision would "damage" his property and "determined [his] rights as a property owner." *Roper*, 173 Ohio St. at 173–74. The Court likewise held that a zoning variance "affected and determined" the rights of a property owner whose land was contiguous to the property covered by the variance,

giving her standing under R.C. 2506.01. *Schomaeker*, 66 Ohio St. 2d at 311–12; *see also Midwest Fireworks*, 91 Ohio St. 3d at 178 (related administrative appeal provision).

It is plain that a property owner's rights are affected when a taxing, zoning, annexation, or town incorporation decision implicates her land. Those administrative decisions undoubtedly "determine" a "person['s]" legal "rights." *See* R.C. 2506.01(C). "The rights to acquire, use, enjoy, and dispose of property are among the most revered in our nation's law and traditions and are integral to our theory of democracy and notions of liberty." *Moore v. Middletown*, 2012-Ohio-3897, ¶37; *see also* Ohio Const. art. I, sec. 1. And this Court has been "particularly cognizant of the fundamental rights at issue in property-use cases" when determining whether property owners have standing to appeal administrative decisions. *Moore*, 2012-Ohio-3897 at ¶36.

Revised Code 2506.01's historical context reinforces that view because it was concerns for property owners' rights that spurred passage of R.C. 2506.01 in the first instance. Wolf & Robiner, *Judicial Review of Administrative Rulings*, 22 Clev. St. L. Rev. at 229–30. Recall that the General Assembly enacted R.C. 2506.01 primarily to provide an appellate remedy for citizens otherwise at the mercy of zoning boards, entities with procedures that offered little safeguards to citizens' rights. *Id.* Revised Code 2506.01 thus was designed to protect "citizens" from arbitrary decisions of political subdivisions. *Id.*

B. Boards of education are not directly affected by valuation decisions on property they do not own.

Political subdivisions, in contrast, are not directly affected by an administrative decision when their interest in the subject of the decision is tangential. Not all interests in administrative decisions are equal for purposes of statutory standing. A person with direct, first-tier interests in an administrative decision—such as the owner of property subject to a decision—has standing to appeal it under R.C. 2506.01. The innumerable persons or entities with indirect, second-tier interests in the outcome of an administrative process do not. This Court's decisions in *Bass Lake* and its progeny suggest that only direct interests in administrative decisions support statutory standing to appeal them under R.C. 2506.01. *See Bass Lake*, 5 Ohio St. 3d at 144; *see also Holiday City*, 70 Ohio St. 3d at 370; *Chupka v. Saunders*, 28 Ohio St. 3d 325, 332 (1986) (Brown, J., concurring).

In *Bass Lake*, this Court addressed whether township trustees had standing under R.C. 2506.01 or R.C. 709.07 to appeal a town annexation decision. The Court focused on R.C. 2506.01(C)'s "express[] limits" on "the availability of appeal to those whose rights, duties, privileges, benefits or legal relationships have been determined by the decision." *Bass Lake*, 5 Ohio St. 3d at 144. While "a property owner meets the criteria of reviewability" because an annexation decision determines "his legally recognized rights" in his property, the "township trustees are not 'person[s] aggrieved' by the decision" because "they possess no legally recognized rights which have been determined" by an annexation decision. *Id.* Township trustees have some interest in the determination of

what property falls within their township and under their management. *See id.* at 142–43. But that interest does not rise to a level sufficient for a township annexation decision to directly affect trustees' rights for purposes of an appeal under R.C. 2506.01.

The Court reached that conclusion even though it "recognize[d] the important role played by township trustees" in the annexation process and the statutory "mandate that township trustees by given the opportunity to actively participate" in the administrative process. *Id.* at 142–43. In other words, the trustees' statutory right under Chapter 709 to participate in annexation proceedings did not grant them standing under R.C. 2506.01 to then appeal any annexation decision resulting from that process. *Id.*

The Court's interpretation of R.C. 2506.01(C) created a disparity in the appellate remedies available to property owners and boards of trustees regarding the same annexation decisions. While property owners had the right to appeal both grants and denials of annexation petitions, trustees had standing to challenge only *grants* of annexation petitions via R.C. 709.07 injunctions. *Id.* at 143–44. That outcome was a feature, not a flaw, of the statutory scheme: "A difference in the rights involved explains the difference in the remedies available." *Id.* at 145. Revised Code 2506.01 reflects that "the General Assembly has afforded a considerable right of appeal to those whose rights are directly affected" and "provided a carefully limited form of relief [under R.C. 709.07] for other persons." *Id.* at 144. The "General Assembly intended" that trustees "contest

the [annexation] petition only by meeting the stiffer standards required for an injunction" under R.C. 709.07, and nothing precluded it from making that judgment. *Id.*

This Court subsequently reaffirmed and extended *Bass Lake*'s reasoning. *In re Annexation of 311.8434 Acres of Land* held that a legislative amendment allowing township trustees to appeal annexation denials under R.C. 2506.01 did not include a parallel right to appeal orders granting annexation under that section, absent independent statutory authorization. 64 Ohio St. 3d 581, 584–85 (1992). And *Holiday City* held that "absent a specific directive from the General Assembly" authorizing appeals of boards of commissioner decisions to incorporate a village, "township trustees are powerless to pursue an R.C. Chapter 2506 appeal." 70 Ohio St. 3d at 370.

The Court should apply those same principles here. While political subdivisions may have an attenuated interest in administrative decisions regarding property within their district, it is an indirect interest akin to that of any resident in the district, or to the interest of a township trustee in an annexation decision. *See id.*, 70 Ohio St. 3d at 369–72. Consider the function of a board of revision's decision on a property valuation. It is to "determine" the property owner's "rights" and "duties" with respect to the property. R.C. 2506.01(C). A private owner's property valuation only indirectly affects a political subdivision's bottom line for revenue, not the subdivision's legal right to receive tax revenue in the first instance. Any general interest in the administrative process for private property

valuations does not translate into a direct interest sufficient for statutory standing to appeal any given valuation decision. *Bass Lake*, 5 Ohio St. 3d at 142–43.

C. Boards of revision decisions are not appealable "final orders" within the meaning of R.C. 2506.01(C).

Revised Code 2506.01(C) provides an additional reason that boards of education cannot appeal valuation decisions under this provision. Under subsection C, "any order, adjudication, or decision" is not final and appealable under this provision if another "rule, ordinance, or statute" authorizes an appeal "to a higher administrative authority" that provides "a right to a hearing." But boards of revision decisions have always been appealable to the board of tax appeals, and the board of tax appeals is a "higher administrative authority" granting a right to a hearing. R.C. 5717.01, 5703.02(D)(3). Board of revision decisions have thus never fallen within the scope of R.C. 2506.01.

H.B. 126 did not change that. Boards of revision decisions are still appealable to the board of tax appeals; boards of education are simply no longer authorized to bring those appeals. *See* R.C. 5717.01. That some litigants may be unable to appeal a specific order does not render that order final and appealable within the meaning of R.C. 2506.01(C). The focus of R.C. 2506.01(C) is on classes of administrative orders. To determine whether an order is appealable under this provision, subsection C looks to whether the order is governed by an administrative appeal process, or whether it is related to criminal proceedings. These factors do not depend on the identity of the litigant attempting to

appeal the order. If subsection C provided that "every party" may appeal, this might be a different case.

II. Olentangy's expansive reading of R.C. 2506.01(C) ignores textual limits on the right to appeal and is unworkable.

Olentangy's contrary position relies primarily on a single decision, *Willoughby Hills.* That decision held that a municipality had standing to appeal a decision by its zoning board. The Court concluded that because R.C. 2506.01 applies to "every final order," that section did not require municipalities to be "directly affected" by administrative orders to have standing to appeal them. *Willoughby Hills*, 64 Ohio St. 3d at 28. The Court then focused on the municipality's charter, which authorized it to appeal zoning board decisions and "demonstrate[d] [the municipality's] fundamental interest" in the "integrity of its zoning ordinances." *Id.* at 31. *Willoughby Hills* cannot bear the weight Olentangy places on it, for multiple reasons.

First, *Willoughby* focused on the "every final order" language in R.C. 2506.01(A) but never addressed R.C. 2506.01(C)'s definition of that term and corresponding limitations on the right to appeal administrative orders. *Id.* at 28. *Willoughby* cites R.C. 2506.01(C) only in a footnote quoting the current version of the statute. *Id.* at 28 n.2.

Second, *Willoughby Hills* did not attempt to reconcile its holding with the Court's R.C. 2506.01 precedent. *Willoughby Hills* did not even mention *Bass Lake*. And its discussion of *Schomaeker* relies on a distinction not supported by RC. 2506.01. *Willoughby Hills* sought to limit *Schomaeker*'s holding (echoed in *Bass Lake* and *Holiday City*) that appellants must

be "directly affected" by an order to appeal it under R.C. 2506.01. *Willoughby Hills*, 64 Ohio St. 3d at 27–28. The "directly affected" requirement, *Willoughby Hills* claimed, applied only to "private property owner" litigants. *Id.* at 27. But *Willoughby Hills* never explained why municipalities should receive more favorable treatment under R.C. 2506.01 than the citizens that provision aimed to protect.

Lastly, *Willoughby Hills* is against the weight of this Court's precedent, including more recent decisions applying *Bass Lake* and *Schomaeker*. *See, e.g.*, *Holiday City*, 70 Ohio St. 3d at 371; *Bass Lake*, 5 Ohio St. 2d; *Schomaeker*; 66 Ohio St. 2d; *Roper*; 173 Ohio St. The Court should continue to follow its *Bass Lake* line of precedent, which accounts for R.C. 2506.01(C)'s limitations on the right to appeal, and confine *Willoughby Hills* to its facts or overrule it to the extent it conflicts with R.C. 2506.01(C).

Adopting Olentangy's reading of *Willoughby Hills* and interpretation of R.C. 2506.01 leads to absurd results. The upshot is that *anyone* can appeal *any* administrative order or decision, regardless of how remote the interest in it. For instance, every entity receiving some amount of property taxes would have statutory standing to appeal. A property owner's tax valuation could be challenged by any number of political subdivision entities receiving property taxes, including public libraries, R.C. 3375.42(B); fire and rescue services, R.C. 505.39; and water and sewer districts, R.C. 6117.311.

And if school districts may appeal board of revision valuation decisions, there is no principled reason to preclude other third parties from appealing such decisions as well.

What of other property owners within the same school district or municipality? Or the parents of children attending the school district? Under Olentangy's view, no interest is too attenuated. Anyone could appeal an administrative decision despite lacking statutory authority to file an administrative complaint in the first instance (as here). *See* R.C. 5715.19(A)(6) (restricting boards of education's right to file complaints with boards of revision). Even a person or entity not involved in the administrative complaint process could appeal a board of revision decision because, under Olentangy's logic, "every final order" is a phrase which means "no limits" on appellate standing. But that ignores the limiting language in R.C. 2506.01(C) and this Court's instruction that the right to an administrative appeal depends on compliance with statutory requirements—including participation in the initial administrative process. *See Cincinnati City Sch. Dist. Bd. of Educ. v. Testa*, 2014-Ohio-4647, ¶¶17–18 (appeal under R.C. 5717.02).

The consequences of this misinterpretation are severe. Olentangy's view of R.C. 2506.01 would subject all property owners to unlimited attacks on their property valuations—regardless of the merits of those challenges—and force property owners to bear legal defense costs on unlimited fronts. That result is unworkable and contrary to this Court's understanding of the limiting language in R.C. 2506.01(C).

***Amicus Curiae* Ohio Attorney General's Proposition of Law II:**

> *Revised Code 5717.05 specifically governs appeals of boards of revision decisions to courts of common pleas and supersedes R.C. 2506.01's general administrative appeal right.*

Even if the Court disagrees with the Attorney General's first proposition of law,

Olentangy cannot succeed. Olentangy's interpretation of R.C. 2506.01 clashes with the plain meaning of R.C. 5717.05. Because R.C. 5717.05 is a specific provision that carefully prescribes the procedure and right to appeal board of revision decisions, it controls. There is no evidence in the text of R.C. 2506.01 that the General Assembly intended this general provision to supersede its carefully reticulated statutory scheme for tax appeals in Chapter 5717.

I. The plain text and structure of R.C. 5717.05 grants only property owners the right to appeal tax appraisal decisions to courts of common pleas.

"[W]ith any question of statutory interpretation," the judiciary's "primary objective is to ascertain and give effect to the legislature's intent." *Marysville*, 2024-Ohio-3323 at ¶13. That requires looking to both "the structure and wording of the statute." *Gutmann v. Feldman*, 2002-Ohio-6721, ¶15. This Court "appl[ies] the statute as written" when it is "plain and unambiguous." *Marysville*, 2024-Ohio-3323 at ¶13.

The text of R.C. 5717.05 expressly answers who may appeal to courts of common pleas and how. Revised Code 5717.05 gives that right to property owners alone. Olentangy acknowledges that this section does not authorize boards of education to appeal valuation decisions for property they do not own. *See* Apt. Br. 13-14. And this Court agrees: "R.C. 5717.05 gives an *owner* two options for appeal but gives a *board of education* only one option." *Columbus City Sch. Bds. of Educ. v. Franklin Cnty. Bd. of Revision*, 2015-Ohio-4304, ¶28 (emphasis in original). Revised Code 5717.05 has remained unchanged

since this Court's interpretation in *Columbus City School Boards*, and there is no reason to doubt the correctness of that holding.

By expressly granting a right to appeal to a limited class of litigants, R.C. 5717.05 excludes litigants outside that class from appealing. It is a "canon[] of statutory construction" that "when a statute directs a thing may be done by a specified means or in a particular manner it may not be done by other means or in a different manner." *Akron Transp. Co. v. Glander*, 155 Ohio St. 471, 480 (1951) (quotation omitted). Rather than spell out every class of litigants excluded from the right to appeal (a tedious task, where the right is so limited as here), the General Assembly excluded by negative implication all parties not listed in R.C. 5717.05—including boards of education.

Chapter 5717's structure confirms this interpretation. Courts read statutory provisions in context with neighboring provisions. *See Lingle v. State*, 2020-Ohio-6788, ¶15; *Marysville*, 2024-Ohio-3323 at ¶17; Antonin Scalia & Bryan A. Garner, *Reading Law – The Interpretation of Legal Texts*, 167 (2012). "In ascertaining the plain meaning of the statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole." *Lingle*, 2020-Ohio-6788 at ¶15 (quotation omitted); *see also State v. Stutler*, 2022-Ohio-2792, ¶12. The Court recently put that principle to practice in interpreting a related provision, amended R.C. 5717.01. *See Marysville*, 2024-Ohio-3323 at ¶17.

That familiar textualist approach should carry special force here because R.C. 5717.05 cross-references the related provision. The first thing that R.C. 5717.05 says about its appeal right is that it is "an alternative to the appeal provided for in section 5717.01." R.C. 5717.05 then describes a carefully limited right of appeal, available only to property owners. Looking to the cross-referenced provision, R.C. 5717.01, confirms that the limitation was intentional. The General Assembly knew how to provide an unlimited appeal right for boards of education because it did so in the pre-amendment version of R.C. 5717.01. That supports "the inference" that parties "not mentioned" in R.C. 5717.05 "were excluded by deliberate choice, not inadvertence." *Cf. Summerville v. Forest Park*, 2010-Ohio-6280, ¶35 (quotation omitted).

So does the General Assembly's decision not to expand appeal rights for boards of education under R.C. 5717.05 when it curtailed their appeal rights in R.C. 5717.01. The General Assembly could have re-routed the open-ended appeals path for boards of education by amending R.C. 5717.05 to expand the right to appeal to courts of common pleas. Instead, it chose to restrict appeal rights for boards of education across the board and bring R.C. 5717.01 into parity with R.C. 5717.05.

II. The General Assembly made R.C. 2506.01 inapplicable to tax appeals by enacting the specific tax-appeal provision in R.C. 5717.05.

Revised Code 5717.05 gives only property owners the right to appeal boards of revision decisions to courts of common pleas. Accepting Olentangy's reading of R.C. 2506.01—under which it authorizes *anyone* to appeal *any* administrative decision to courts

of common pleas—would create a conflict between R.C. 2506.01 and 5717.05. When two provisions "cover[] the same subject matter," the default rule is that the specific provision controls over the general provision and is "construed as an exception." *Acme Eng'r Co. v. Jones*, 150 Ohio St. 423, 431 (1948) (collecting cases). The General Assembly codified that canon of construction in R.C. 1.51, which provides:

> If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

Under R.C. 1.51, the analysis here is straightforward and proceeds in three stages: (1) R.C. 2506.01 and 5717.05 conflict; (2) R.C. 5717.05, the specific provision governing tax appeals, controls over R.C. 2506.01, a general appeals provision; and (3) Olentangy cannot rebut the general-specific presumption.

Conflict. There is a clear conflict if R.C. 2506.01 authorizes political subdivisions to appeal any boards of revision decision to courts of common pleas because R.C. 5717.05 limits that appellate remedy to property owners alone. *See State ex rel. Dublin Sec., Inc. v. Ohio Div. of Sec.*, 68 Ohio St. 3d 426, 430 (1994). This Court previously held that R.C. 2506.01 conflicted with another, more specific provision of the Revised Code because the two provisions placed different burdens on the party bringing the action and required different standards of appellate review. *See In re Petition to Annex 320 Acres to the Vill. of*

S. Lebanon v. Doughman, 64 Ohio St. 3d 585, 593–97 (1992). A difference between who is permitted to file an appeal is a clear conflict of at least the same magnitude.

General vs. Specific. Revised Code 5717.05 prevails because it is a specific section superseding the general appeals authorization in R.C. 2506.01. Revised Code 2506.01 is a catch-all administrative appeals provision. It generally authorizes parties to appeal final orders by local, quasi-judicial bodies to courts of common pleas. Unlike R.C. 5717.05, it does not deal with a specific class of orders, such as tax valuation determinations. No one can dispute that Chapter 2506 contains "general statutory provisions," *In re Petition to Annex 320 Acres*, 64 Ohio St. 3d at 594, or that R.C. 2506.01 is one of those general provisions.

Chapter 5717, in contrast, is a comprehensive statutory scheme governing tax appeals. As part of that scheme, R.C. 5717.05 addresses a specific subcategory of administrative appeals (tax boards of revision decisions) to courts of common pleas. "R.C. 5717.05 sets forth who may appeal, how one appeals, whom the appellant names as appellees, and how the appellant serves appellees with notice of the appeal." *Huber Hts. Circuit Courts v. Carne*, 74 Ohio St.3d 306, 308 (1996). This Court thus should begin with the presumption that the specific provision (R.C. 5717.05) controls appeals of board of revision tax decisions to courts of common pleas.

Manifest Intent. Revised Code 1.51 is clear that the general-specific presumption can be overcome only on a showing that the general provision is both the more recent

enactment, and that it reflects the legislature's "manifest intent" to supersede the specific section. Even when R.C. 2506.01 is later in time to a specific provision, "R.C. 1.51 still requires that the manifest intent is that the general provision (R.C. 2506.01 et seq.) prevail." *Petition to Annex 320 Acres*, 64 Ohio St. 3d at 595. While R.C. 2506.01 is the more recent provision here, Olentangy cannot show that the General Assembly intended it to prevail for at least three reasons.

First, it is impossible to read R.C. 2506.01 as showing the General Assembly's "manifest intent" to supersede R.C. 5717.05, even under Olentangy's theory of the case. Olentangy concedes that when the General Assembly enacted R.C. 2506.01 in 1957, that provision *could not* authorize boards of education's appeals of board of revision decisions to courts of common pleas. App.Op. at ¶20. At that time, R.C. 5717.01 granted a right to appeal boards of revision decisions to the board of tax appeals. That meant that boards of revision decisions were not "final appealable orders" under R.C. 2506.01(C) because they were appealable to a higher administrative authority offering a hearing. *See* R.C. 2506.01(C). The General Assembly could not possibly have intended R.C. 2506.01 to supplant R.C. 5717.05 at the time it adopted R.C. 2506.01 because R.C. 2506.01 did not (and still does not) cover appeals of board of revision decisions. *See above* at I.C.

Second, nothing in the text of R.C. 2506.01 suggests the General Assembly intended to override R.C. 5717.05. When assessing manifest intent, this Court's "long-standing rule" is that it "will not hold prior legislation to be impliedly repealed … unless the subsequent

legislation clearly requires that holding." *State v. Pribble*, 2019-Ohio-4808, ¶19 (quotation omitted). For over 80 years, the General Assembly has strictly limited the right to appeal boards of revision decisions to courts of common pleas, granting it to property owners alone. Because R.C. 5717.05 existed prior to the enactment of R.C. 2506.01, this Court assumes "that the General Assembly had knowledge of the prior legislation … and had the General Assembly intended to nullify such prior legislation it would have done so, by means of an express repeal thereof." *State v. Belton*, 2016-Ohio-1581, ¶44 (quotation omitted); *see also Dublin*, 68 Ohio St. 3d at 431. Yet R.C. 2506.01 makes no reference to R.C. 5717.05, tax appeals, or boards of education's standing to appeal more generally.

Third, this Court's manifest-intent precedent disfavors reading R.C. 2506.01 as impliedly superseding and frustrating a carefully calibrated statutory scheme. *Petition to Annex 320 Acres* is particularly instructive. There, this Court recognized that R.C. 2506.01 predated the more specific provision at issue but went on to assess the manifest-intent prong and hold that R.C. 2506.01 did not supersede the more specific provision. 64 Ohio St. 3d at 595–96. Key to that decision was the Court's determination that the specific provision (R.C. 709.07) furthered "a comprehensive legislative scheme," while application of R.C. 2506.01 would have frustrated it. *Id.*; *see also Annexation of 311.8434 Acres*, 64 Ohio St. 3d at 584–85.

That reasoning applies with full force here. Revised Code 5717.05 is part of a legislative scheme governing appeals of tax valuation decisions. *See Marysville*, 2024-

Ohio-3323 at ¶18. And R.C. 5717.05 furthers the design of Chapter 5717 in ways that R.C. 2506.01 does not. Chapter 5717 grants parties with the greatest legal interest in the taxed property (the property owners) commensurate rights to appeal tax valuation decisions. It limits the opportunity for parties with less direct interests (such as political subdivisions) to interfere with that process by carefully circumscribing the instances in which they may file appeals. That design is reflected throughout Title 57's broader tax scheme, which permits boards of education to file valuation complaints only under narrow circumstances, R.C. 5715.19(A)(6); prohibits them from filing counter-complaints unless there is at least $17,500 in taxable value at issue, R.C. 5715.19(B); and bars them from appealing board of revision decisions on property they do not own or lease to either the board of tax appeals, R.C. 5717.01, or courts of common pleas, R.C. 5717.05. Under Olentangy's reading of R.C. 2506.01—which permits anyone to appeal any board of revision decision, regardless of their interest in the property—that goal is frustrated.

None of Olentangy's arguments rebut the above concerns or carry independent force. Olentangy's primary position is that H.B. 126's amendment of R.C. 5717.01 opened an appeal right under R.C. 2506.01. But that works only by ignoring the specific provision governing standing to appeal tax decisions to courts of common pleas (R.C. 5717.05). The amendment that shrunk appeal rights under R.C. 5717.01 did not somehow allow R.C. 2506.01 to override the more specific and still-unchanged R.C. 5717.05. A contrary interpretation defies both precedent and common sense. Courts do not presume that

legislatures significantly shift the status quo through silence. *See Belton*, 2016-Ohio-1581 at ¶44; *Cyan, Inc. v. Beaver Cnty. Empls. Retirement Fund*, 583 U.S. 416, 431 (2018). And it strains credulity to suggest the General Assembly silently enlarged appeal rights for boards of education through an amendment expressly limiting them.

This Court already has rejected analogous reasoning. In response to the Court's decision in *Bass Lake*, the General Assembly amended the Revised Code to expressly permit township trustees to appeal annexation *denials* under R.C. 2506.01. *Annexation of 311.8434 Acres of Land*, 64 Ohio St. 3d at 584–85. This Court refused to read that amendment as also allowing trustees to challenge annexation *grants* under R.C. 2506.01. *Id.* at 585. Because the amendment "did not change the procedure for challenging" annexation grants, trustees' only option was their preexisting right to injunction proceedings under R.C. 709.07. *Id.* That more limited right comported with state policy "to encourage annexation," which "would be thwarted … if township trustees were provided the broad appeal rights contained in R.C. Chapter 2506." *Id.* The reasoning of *Annexation of 311.8434 Acres of Land* negates Olentangy's argument here.

Olentangy also argues that because R.C. 5717.01 is not the "exclusive" means of appealing a board of revisions decision, that must mean that boards of education can appeal such decisions to courts of common pleas under R.C. 2506.01. Apt. Br. at 15-16. But the "clear statutory language" of R.C. 5717.05 "refutes" Olentangy's reading. *See State v. Ashcraft*, 2022-Ohio-4611, ¶¶16-17; *see also Lingle*, 2020-Ohio-6788 at ¶28. Unlike

the appeal right under R.C. 5717.01, the right of appeal under R.C. 5717.05 has been limited to property owners for over 80 years. Revised Code 5717.05 excludes by negative implication any party outside the limited class of litigants it authorizes to appeal to courts of common pleas. *See above* at 21–22. That section prevents recourse to the general right to appeal under R.C. 2506.01.

Lastly, Olentangy would read into the general-specific canon a requirement that a specific statute (in this case R.C. 5717.05) explicitly cross-reference and preclude application of a general section (here R.C. 2506.01) to be effective. Apt. Br. at 16-17. Olentangy's argument flips the general-specific presumption on its head. Revised Code 1.51 states that a more specific provision governs unless plaintiff can rebut that presumption by showing that the General Assembly enacted a subsequent general provision with the "manifest intent" to override the specific provision. Olentangy attempts to short-circuit the actual requirement of R.C. 1.51 by importing a nonexistent "express cross-reference" requirement into it. Moreover, adding an express reference to R.C. 2506.01 would have been superfluous here. Revised Code 2506.01 has never applied to appeals of boards of revision decisions. *See above* at I.C. The General Assembly thus had no reason to reference it.

III. Olentangy's cases are inapposite.

None of Olentangy's cases involve a conflict between a specific appeals provision and the general provision in R.C. 2506.01. *Walker v. City of Eastlake*, *Sutherland-Wagner v. Brook*

Park Civil Service Commission, and *Nuspl v. Akron* are consistent with the general-specific canon and support the inapplicability of R.C. 2506.01 in this case.

Walker addressed whether R.C. 2506.01 provided an additional route to appeal for a party already authorized to appeal under a separate, more specific statute. 61 Ohio St. 2d 273 (1980). The answer was straightforward: R.C. 2506.01 "unambiguous[ly]" provides a remedy "in addition to any other remedy of appeal provided by law." *Id.* at 275 (R.C. 2506.01(B)). While another, more specific provision (R.C. 124.34) gave the claimant a right to appeal, nothing about that provision was "mandatory or exclusive in nature" such that the claimant could not choose other appellate remedies available to him. *Id.* *Walker* thus stands for the uncontroversial point that a litigant with multiple avenues to appeal may select any available pathway.

This case flips the facts of *Walker*. In *Walker*, there was no clash between the two statutes at issue; both authorized the claimant to appeal. Here, by comparison, R.C. 5717.05 *prohibits* non-owners from appealing to courts of common pleas, while (under Olentangy's view) R.C. 2506.01 would authorize the very same appeals that R.C. 5717.05 prohibits. *Walker* anticipated this scenario and prescribed a different outcome: "an appeal is available from a final order" of a political subdivision "unless another statute … clearly prohibits the use of this section." *Id.* (citing R.C. 1.52). By precluding non-owners from appealing boards of revision decisions to courts of common pleas, R.C. 5717.05 "clearly prohibits" the use of the general authorization in R.C. 2506.01. Nothing

in *Walker* required specific provisions to expressly cross-reference R.C. 2506.01 to supersede it.

Sutherland-Wagner involved the same statutory interaction between R.C. 124.34 and R.C. 2506.01 as *Walker* did, but it addressed whether statutory silence amounts to a statutory prohibition. 32 Ohio St. 3d 323 (1987). Revised Code 124.34 authorized appeals of some adverse employment decisions (termination, pay reduction) but was silent as to the appealability of other adverse decisions. It neither prohibited nor authorized "the appeal of an employment suspension" to the courts of common pleas. *Id.* at 324. It simply did not address appeal rights or procedures for those decisions. *Id.* The Court rejected the general-specific argument there because the "appellee concede[d] that 'there is no conflict between §124.34 and §2506.01 of the Revised Code,'" and held that R.C. 124.34's statutory silence on the appealability of suspension decisions did not clash with the general appeals authorization under R.C. 2506.01. *Id.* at 325 (quotation omitted).

In contrast, R.C. 5717.05 does comprehensively address the type of appeals at issue here—boards of revision decisions appealed to courts of common pleas. It limits who has the right to take such appeals and specifies when, to whom, and how. That limit on the appeal right, as opposed to statutory silence, conflicts with Olentangy's reading of R.C. 2506.01. *Sutherland-Wagner* acknowledged that the general-specific rule would be "appropriate" when "a conflict exists between two statutes." *Id.* at 325. That conflict

simply was not present in *Sutherland-Wagner*. As such, that case cannot control when a statutory conflict is presented.

Nuspl is a *Walker* redux. It held that where "neither local civil service rules nor state law prohibits an appeal from the decision of a civil service commission … such a decision may be appealed to the court of common pleas pursuant to R.C. 2506.01." 61 Ohio St. 3d 511, 512 (1991). *Nuspl* has nothing to say when a specific statutory provision prohibits a type of appeal that otherwise might be permitted under the general appeal provision in R.C. 25096.01.

CONCLUSION

For the foregoing reasons, the Court should affirm the Fifth District.

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