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NOV 16 1998

**FILED**

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November 13, 1998

MINNESOTA SUPREME COURT  
ATTN FREDERICK K GRITTNER  
305 MINNESOTA JUDICIAL CENTER  
25 CONSTITUTION AVENUE  
ST PAUL MN 55155-6102

Re: Minnesota Property Tax Litigation Involving the Application of Minn. Stat. §273.13,  
subd. 24 to Class 3(a) Commerical, Industrial or Utility Property  
**Court File No. C1-98-2035**  
Our File No. 98-2735

Dear Mr. Grittner:

Enclosed for filing please find County of Olmsted's Motion to Assign All Cases to the  
Minnesota Tax Court for Determination relative to the above-entitled matter.

Thank you for your consideration.

Very truly yours,

  
Brandy A. Christensen

Legal Assistant to  
Gregory J. Griffiths

/bac

Enclosures

C: Alan L. Kildow  
Robert A. Hill

NOV 16 1998

**FILED**

STATE OF MINNESOTA

IN SUPREME COURT

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Court File No. C1-98-2035

In re Minnesota Property Tax  
Litigation Involving The  
Application of Minn Stat.  
§273.13, subd. 24 to Class 3(a)  
Commercial, Industrial or  
Utility Property

**COUNTY OF OLMSTED'S  
MOTION TO ASSIGN ALL  
CASES TO THE MINNESOTA  
TAX COURT FOR DETERMINATION**

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TO: The Chief Justice and Associate Justices of the Minnesota Supreme Court.

On or about November 5, 1998, Hennepin County, Ramsey County, Carver County, Anoka County, Dakota County, and Wright County brought a motion before this Court pursuant to Minn. Stat. §2.724, subd. 2, asking the Supreme Court to issue an Order transferring to the Minnesota Tax Court for determination, all cases which involve the property tax controversy concerning whether particular parcels of property are entitled to receive the "low or preferred rate" of Class 3(a) property or the "general right" of Class 3(a) property. The County of Olmsted joins in the motion to assign all cases to the Minnesota Tax Court for determination.

**1. Statement of Facts necessary to an understanding of the issues presented.**

The Motion brought by the Counties listed above sets forth the statement of facts necessary to the understanding of the issues presented. Rather than reciting those facts here, they are incorporated herein by reference.

**2. Statement of the Issues.**

- 1) Does the Minnesota Supreme Court have the authority to assign a judge or the Minnesota Tax Court to preside over all cases involving the issues presented in these cases.

**ANSWER: YES**

- 2) Does the Minnesota Tax Court have the authority to hear cases involving the issues presented in these cases because they arise under the tax laws of this state.

**ANSWER: YES**

- a. Constitutional issues can be heard by the Minnesota Tax Court so long as the case was originally filed in District Court and transferred to the Tax Court pursuant to In re Petition of McCannel, 301 N.W.2d 910, 911 (Minn. 1980).
- b. Plaintiffs are not entitled to jury trials in cases that arise under the tax laws of this state even if they are pled as common law, declaratory judgement or constitutional actions.

**3. Argument.**

The counties that filed the initial motion set forth detailed legal argument concerning why the Minnesota Supreme Court has the authority to assign a judge or the Minnesota Tax Court to preside over all cases involving the issues presented in these cases. Olmsted County joins in that argument and incorporates it herein by reference. Those counties have also set forth the argument explaining why the Minnesota Tax Court has the authority to hear cases involving the

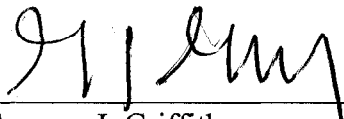
issues presented in these cases since they arise under the tax laws of this state. Olmsted County joins in that argument and asks that it be incorporated herein by reference.

Olmsted County agrees with the proposition set forth by the other counties that the proper venue for determination of these cases is the Minnesota Tax Court. Olmsted County requests that the motion to transfer the cases to Tax Court be granted.

WHEREFORE, County of Olmsted requests an order granting the motion to transfer to the Minnesota Tax Court all cases which involve the property tax controversy concerning entitlement to the "low or preferred rate" of Class 3(a) property under Minn. Stat. §273.13, subd. 24.

Dated: 11/13, 1998.

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