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UNITED STATES TAX COURT

GEORGE & LEILA GORRA,)
)
Petitioners,)
)
v.) Docket No. 15336-10
) FILED ELECTRONICALLY
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

**AMENDED RESPONSE TO PETITIONERS' RESPONSE TO RESPONDENT'S MOTION TO HAVE
CASE ASSIGNED TO A JUDGE OR A SPECIAL TRIAL JUDGE**

RESPONDENT RESPONDS, pursuant to the Court's Order dated June 10, 2011, ordering respondent to file a response to petitioners' response to respondent's motion to have case assigned to a judge or special trial judge.

IN SUPPORT THEREOF, respondent respectfully states:

1. On November 12, 2010, petitioners filed a motion for partial summary judgment in this case on the issue of whether an appraisal of the subject easement is a qualified appraisal within the meaning of I.R.C. § 170(f)(11) and Treas. Reg. §1.170A-13(c)(3).

2. By order dated May 10, 2011, the Court denied petitioners' November 12, 2010 motion for partial summary judgment.

3. On May 19, 2011, respondent filed a motion to have this case assigned to a judge or special trial judge in order to

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depose Eric Haims, the appraiser of the subject appraisal, pursuant to Tax Court Rule 74.

4. On June 9, 2011, petitioners responded to respondent's motion. Petitioner's response does not raise valid objections that are relevant to this case, but instead sets forth a preferred course of litigating (and assigning) the façade easement cases pending on this Court's docket. Waiting for the other motions and cases petitioners cite in their response to be decided will not facilitate the development of this case for trial, because none of those cases raise the issue on which respondent seeks to conduct discovery, that is, whether the so-called "paired sales data analysis technique" used by Haims Realty is a valid methodology. Indeed, petitioners have not offered to be bound by any of the pending cases, and their filing of a motion for summary judgment attempting to distinguish themselves from Scheidelman shows their belief that this case will not be affected by the pending motions and cases.

5. The second half of petitioners' response is more in the nature of a request for a declaratory judgment from this Court with respect to any contractual obligations petitioners may have with respect to Haims Realty. This, of course, is not within the jurisdiction of this Court. Haims Realty, like any other

person or commercial institution is subject to the subpoena of this Court. Respondent will pay the deponent the fees required of a party seeking to depose a non-party witness, as set forth by the Tax Court rules and applicable statute.

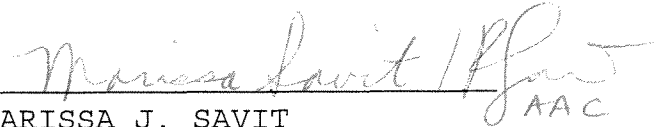
6. For the reasons set forth above, as well as for the reasons set forth in respondent's motion dated May 19, 2011, respondent requests that the Court grant respondent's motion to have this case assigned to a judge or special trial judge.

WILLIAM J. WILKINS
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Date: June 27, 2011

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