

No. A11-1832

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***STATE OF MINNESOTA  
IN SUPREME COURT***

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Idowu Odunlade, Jose Llangari, and Andrea Krai, on  
behalf of themselves and others similarly situated,

Relators,

vs.

City of Minneapolis, City of Minneapolis Assessor's  
Office, City of Minneapolis Assessor Patrick J. Todd  
in his personal capacity, County of Hennepin,  
Hennepin County Assessor's Office, Hennepin County  
Assessor James R. Atchison, in his personal capacity,

Respondents.

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**BRIEF OF COUNTY RESPONDENTS**

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## LEGAL ISSUE

**ON APPEAL, RELATORS WAIVE ALL ISSUES RELATED TO RESPONDENTS COUNTY OF HENNEPIN, HENNEPIN COUNTY ASSESSOR'S OFFICE AND THE HENNEPIN COUNTY ASSESSOR JAMES R. ATCHISON, IN HIS PERSONAL CAPACITY.**

RESULT BELOW: Not applicable.

## STATEMENT OF THE CASE

Relators served and filed a 30 Count Amended Complaint/Petition with the Hennepin District Court naming both the County of Hennepin and City of Minneapolis, their respective Assessors in their official and individual capacities as Respondents. Jurisdiction was transferred to the Minnesota Tax Court by Order dated March 4, 2011 pursuant to Respondents' Motion.

Respondents City and County moved the Tax Court to dismiss the Amended Complaint pursuant to Minn. R. Civ. P. 12 which was heard by the Honorable Judge Sheryl A. Ramstad, Minnesota Tax Court, on August 25, 2011.

The Tax Court granted the motions of both Respondents City and County dismissing Relators' Amended Complaint in its entirety in an Order dated August 31, 2011. Relators appealed the Tax Court decision by Petition for Writ of Certiorari on October 14, 2011.

## STATEMENT OF FACTS

Relators' Brief is deliberately devoid of any reference to a County Respondent or legal issue involving a County Respondent except a footnote that states the brief:

does not address the following issues involving Hennepin County that were raised by the Statement of Case of Relators: 5(c), whether the County has independent statutory duties within a City of the First Class; 5(d) and (e), whether the County's actions were ministerial with respect to the Truth in Taxation statements and whether such statements were sufficient; 5(f), whether Relators made a showing of malice on the part of the County in using Respondent City's inaccurate and invalid valuations; 5(g), whether the County has statutory duties to insure uniformity in taxing districts where a City of the First class is acting as assessor; 5(j) whether Relators claims under Section 1983 were properly dismissed; 5(k), whether any private right of action exists under the Minnesota constitution; 5(m), whether the County has any duty to ensure uniformity in taxation; 5(n), whether the County was a property party to what the County characterized as a tax appeal in order to move for a transfer of venue.

Relators' Br. at 8 n 1.

## ARGUMENT

### **RELATORS WAIVE ALL ISSUES RELATED TO COUNTY RESPONDENTS.**

The Minnesota Supreme Court has consistently held that an appellant waives any issue not raised where the issue is not briefed in the argument section of their brief.

Toth v. Arason, 722 N.W.2d 437, 443 (Minn. 2006) ("It is axiomatic that issues not

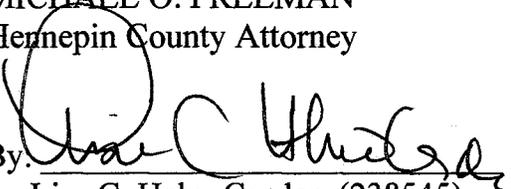
'argued' in the briefs are deemed waived on appeal." *citing* In re Olson, 648 N.W.2d 226, 228 (Minn.2002)); In re Olson, 648 N.W.2d 226, 228 (Minn. 2002) (The Minnesota Supreme Court found that an issue was not briefed where it was identified only tangentially in an argument heading and one footnote.); McKenzie v. State of Minnesota, 583 N.W.2d 744, 746 (Minn. 1998)(The Minnesota Supreme Court found "issues not argued in briefs are deemed waived on appeal" *citing* State v. Grecinger, 569 N.W.2d 189, 193 n. 8 (Minn. 1997)); State v. Grecinger, 569 N.W.2d 189, 193 (Minn. 1997); Balder v. Haley, 399 N.W.2d 77, 80 (Minn. 1987). In the instant case, Relators' deliberate lack of briefing acts to waive all issues involving County Respondents. As a result, Relators have effectively dismissed County Respondents from Relators' appeal.

### CONCLUSION

For the reasons set forth herein, Respondents County of Hennepin, Hennepin County Assessor's Office, and Hennepin County Assessor James R. Atchison respectfully request that the Tax Court decision be affirmed in all respects.

Respectfully submitted,

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