

OHIO BOARD OF TAX APPEALS

Stonebridge Housing LP,)	
)	
Appellant,)	CASE NO. 2000-A-99
)	
vs.)	(REAL PROPERTY TAX)
)	
Franklin County Board of Revision, Franklin)	ORDER
County Auditor, and the Board of Education of)	
the Columbus City Schools District,)	(Denying Motion to Remand)
)	
Appellees.)	

APPEARANCES:

For the Appellant - David L. Keister
Attorney at Law
1010 Old Henderson Road, Suite 102
Columbus, Ohio 43220

For the County
Appellees - Ron O'Brien
Franklin County Prosecuting Attorney
By: Paul M. Stickel
Assistant Prosecuting Attorney
373 South High Street, 20th Floor
Columbus, Ohio 43215

For the Board of
Education - Jeffrey A. Rich
Mark H. Gillis
Teaford, Rich, Crites & Wesp
20 East Broad Street
Columbus, Ohio 43215-3682

Entered September 8, 2000

Mr. Johnson, Ms. Jackson and Mr. Manoranjan concur.

This cause and matter came on to be considered by the Board of Tax Appeals upon a “Motion to Remand” filed by appellant, Stonebridge Housing LP (hereinafter “Stonebridge”), on August 9, 2000. The matter was submitted to the Board of Tax Appeals upon the motion and brief in support of said motion and the memoranda contra the motion filed by the appellee board of education.

Initially, said motion provides:

“Now comes Appellant Stonebridge Housing LP and moves the Board of Tax Appeals to remand the above-captioned matter to the Franklin County Board of Revision with instructions to vacate its decision dated January 13, 2000, regarding Parcel 010-235547 for the tax lien date January 1, 1998, and enter an order vacating its decision dated January 13, 2000 regarding Parcel 010-235547 for tax lien date January 1, 1998 and modifying its decision dated January 13, 2000 regarding Parcel 010-235547 for the tax lien date January 1, 1998 finding the properties new fair market value for tax lien date January 1, 1999 is \$14,663,000 and the new taxable value is 35% or \$5,132,050.”

Stonebridge contends, in its memorandum in support, that on March 31, 1999, the Columbus Board of Education filed a complaint against the valuation of two parcels of real property owned by Stonebridge, however only one of them is under consideration herein. The Franklin County Board of Revision heard said complaint on September 21, 1999, and rendered its decision on January 13, 2000, increasing the subject’s valuation for tax year 1998. Stonebridge argues that since the board of revision did not hear the complaint in question and render its decision thereon within ninety days after the complaint was filed, pursuant to R.C. 5715.19 (C), “the complaint should have been continued by the board from tax lien date January 1, 1998 to tax lien date January 1, 1999, the ensuing year,” pursuant to R.C. 5715.19 (D). (Motion, p. 2)

R.C. 5715.19 (C) provides in pertinent part that:

“ * * * The board of revision shall hear and render its decision on a complaint within ninety days after the filing thereof with the board, except that if a complaint is filed within thirty days after receiving notice from the auditor as provided in division (B) of this section, the board shall hear and render its decision within ninety days after such filing.”

R.C. 5715.19 (D) provides in pertinent part that:

“ * * * If a complaint filed under this section for the current year is not determined by the board within the time prescribed for such determination, the complaint and any proceedings in relation thereto shall be continued by the board as a valid complaint for any ensuing year until such complaint is finally determined by the board or upon any appeal from a decision of the board. In such case, the original complaint shall continue in effect without further filing by the original taxpayer, the original taxpayer’s assignee, or any other person or entity authorized to file a complaint under this section.”

The foregoing statutory provisions, on their face, clearly prescribe how a complaint shall be treated, if it is not ruled upon by a board of revision within 90 days of its original filing date. R.C. 5715.19 (D) provides that when a complaint is not heard and decided in the 90-day time frame prescribed by R.C. 5715.19 (C), then the complaint becomes a “continuing” complaint for the ensuing period, that is, until a decision is ultimately rendered by the board of revision. Stonebridge incorrectly interprets said sections to mean that when a complaint is continued, it is valid only for the ensuing year and not for the year for which it was originally filed. However, the statute clearly provides that “the original complaint shall continue in effect”, and it will apply to not only the year stated thereon, but also any other year or years that have passed while the complaint was still pending. Case law explains that a “continuing complaint” is “merely a procedural device which ought to be given the effect of its plain intention. While a prior complaint is still pending before the BOR, the parties are not required to

keep filing additional complaints in order for the BOR to retain jurisdiction for the ensuing years within the same triennium period.” *Concord Columbus L.P. v. Franklin Cty. Bd. of Revision, et al.* (1997), 122 Ohio App. 3d 205, 210. See also, *Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 87 Ohio St. 3d 305; *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1996), 74 Ohio St. 3d 639; *Oberlin Manor, Ltd. v. Lorain Cty. Bd. of Revision* (1994), 69 Ohio St. 3d 1. This Board finds, as it did earlier, that “once a valid complaint is filed with a county board of revision the complaint remains valid until it is finally determined and that no affirmative action on the part of a county board of revision is necessary to continue that complaint.” *Velta Picukans and Janis Picukans v. Cuyahoga Cty. Bd. of Revision, et al.* (August 9, 1978), B.T.A. Case No. 78-E-32, unreported.

Accordingly, based upon the foregoing, we have determined that appellant’s motion to remand is not well taken. Therefore, said motion, must be, and hereby is, denied. ohiosearchkeybta