

# OHIO BOARD OF TAX APPEALS

Richard Reid, Tracy Reid, )  
Dan Hess and Janet Hess, )  
 )  
Appellants/Appellees, ) CASE NOS. 2000-B-2035  
 ) 2000-B-2038  
 )  
and )  
 )  
Cleveland Heights/University Heights )  
City School District Board of Education,) )  
 )  
Appellee/Appellant, ) (REAL PROPERTY TAX)  
 )  
vs. )  
 )  
Cuyahoga County Board of Revision )  
and Cuyahoga County Auditor, ) DECISION AND ORDER  
 )  
Appellees. )  
 )

## APPEARANCES:

For the Appellants/Appellees - Jay Siegel  
Fred Siegel Co., L.P.A.  
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Entered: June 15, 2001

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

The Board of Tax Appeals is considering this matter pursuant to notices of appealed Richard Reid, Tracy Reid, Dan Hess and Janet Hess (“appellants”) and by the Cleveland Heights/University Heights City School District Board of Education (“BOE”). These consolidated appeals are taken from a decision of the Cuyahoga County Board of Revision (“BOR”) dismissing appellant’s refiled complaint and the BOE counter-complaint.<sup>1</sup> On March 11, 2000, appellant “refiled” a complaint challenging the value of the subject property for the year 1995. The BOE filed a complaint on May 5, 2000. In its October 25, 2000 decision, the BOR explains its dismissal of these complaints as follows:

“I am writing to inform you that the Cuyahoga County Board of Revision has dismissed the above referenced complaint for lack of jurisdiction, pursuant to *C.R. Truman, L.P. v. Cuy. Co. BOR, Case No. 76713 8<sup>th</sup> District Court of Appeals*.

“Subject counter complaint is dismissed because Board of Revision lacks jurisdiction to hear the original, complaint, pursuant to *C.I.A. Properties Appellant v. Cuyahoga County Auditor et al., Appellees [Cited as C.I.A. Properties v. Cuyahoga Cty. Aud. (2000), 89 Ohio St.3d 363]*.” (B.T.A. No. 2000-B-2038 S.T., Exhibit A.) These complaints were filed on March 11, 2000 and May 5, 2000 respectively for tax year 1995.

Previous to the filing of these subject complaints, appellants had filed a complaint for the same property and tax year in March of 1996. And, apparently, the

BOE had also filed a timely counter-complaint around that time. The BOR dismissed the complaints stating in its November 25, 1997 decision, as follows:

“I am writing to inform you that the Cuyahoga County Board of Revision has dismissed the above referenced complaint for lack of jurisdiction, pursuant to Ohio Supreme Court decision in *Sharon Village v. Licking County Board of Revision, et al.*, (1997), 78 Ohio St.3d 479.

“Subject counter complaint is dismissed because Board of Revision lacks jurisdiction to hear the original complaint, pursuant to ORC 5715.19 and *Hewlett Packard Co. v. Cuyahoga County Board of Revision, et al.*, (June 9, 1995) BTA-899 & 900.”

(B.T.A. No. 2000-B-2035 S.T., Exhibit F.)

On December 8, 1998 the Ohio General Assembly passed Sub. H.B. 694, which authorized the refiling of complaints dismissed on the ground that the person filing the complaint was not authorized to practice law. Apparently, this is the basis of appellants’ March 11, 2000 refiling of its complaint for tax year 1995.

The Board finds that the BOR properly dismissed the refiled complaint. In *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2001), 91 Ohio St.3d 308, the Supreme Court stated in its syllabus:

“R.C. 5715.19, as amended by Sub. H.B. No. 694, may not be constitutionally applied to permit the refiling of once-dismissed R.C. 5715.19 complaints challenging valuations for tax years prior to the effective date of Sub. H.B. No. 694. Such an application violates Section 28, Article II of the

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<sup>1</sup>In its counter-complaint, the BOE sought affirmance of the auditor’s values.

Ohio Constitution, which prohibits the enactment of retroactive legislation.”

The appellants have refiled a once-dismissed complaint challenging the subject property’s valuation for a tax year prior to the effective date of Sub.H.B. No. 694. The Ohio Constitution prohibits retroactive legislation. *North Olmsted City School Dist. Bd. of Ed. v. Cuyahoga Cty. Bd. of Revision* (Apr. 27, 2001), B.T.A. No. 00-M-2006, unreported; *City of Strongsville v. Cuyahoga Cty. Bd. of Revision* (Apr. 27, 2001), B.T.A. No. 97-M-300, unreported. The Board therefore finds that the decision of the Cuyahoga County Board of Revision dismissing the within complaints is correct and is hereby affirmed.

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