

OHIO BOARD OF TAX APPEALS

Green Circle Growers, Inc.,)	CASE NOS. 2005-H-1310
)	2005-H-1316
Appellant/Appellee,)	2005-H-1318
)	2005-H-1324
and)	
)	(REAL PROPERTY TAX)
Firelands Local School District)	
Board of Education,)	ORDER
)	
Appellee/Appellant,)	(Denying Joint Motion for Designation
)	as Complex Litigation and
vs.)	for Bifurcation of Issues)
)	
Lorain County Board of Revision,)	
and the Lorain County Auditor,)	
)	
Appellees.)	

APPEARANCES:

For the Property Owner	-	Siegel Siegel Johnson & Jennings Co., L.P.A. J. Kieran Jennings 25700 Science Park Drive, Suite 210 Cleveland, Ohio 44122
For the County Appellees	-	Dennis P. Will Lorain County Prosecuting Attorney John C. Morrison Assistant Prosecuting Attorney 225 Court Street, 3 rd Floor Elyria, Ohio 44035
For the Board of Education	-	Armstrong, Mitchell, Damiani & Zaccagnini, LPA Timothy J. Armstrong 1725 The Midland Building 101 Prospect Avenue, West Cleveland, Ohio 44115

Entered August 24, 2007

Ms. Margulies, Mr. Eberhart, and Mr. Dunlap concur.

This matter is now considered by the Board of Tax Appeals following the filing of a joint motion to designate the above-captioned matter as “complex litigation” pursuant to Ohio Adm. Code 5717-1-07 and for bifurcation of the issues.

Based on a review of the notices of appeal, the statutory transcript, and the parties’ pleadings, the board finds that these appeals do not merit treatment as “complex litigation” pursuant to Ohio Adm. Code 5717-1-7. Accordingly, the motion for said designation is denied. However, under Ohio Adm. Code 5717-1-11, this board will establish specific times for completion of discovery if, within fourteen days of the issuance of this order, the parties jointly propose a case schedule designating agreed dates for discovery.

The parties also move the board to bifurcate issues. The matter before this board involves the Lorain County Auditor’s (“auditor”) valuation and assessment, pursuant to R.C. 5715.19(A)(1)(d), of farmland that contains greenhouses.¹ After the filing of complaints against the auditor’s valuation of real property, the Lorain County Board of Revision (“BOR”) conducted a hearing and issued a determination letter that maintained the auditor’s values. In this appeal of the BOR’s decision, the board is required to determine value. R.C. 5717.03(B).

The parties ask that, prior to conducting a valuation hearing, this board schedule a separate hearing and first decide if any portion of the real property at issue should be classified as personal property. In support of their motion to conduct a

¹ This board relies on the term “greenhouses,” which the property owner describes as “growing structures” or “growing facilities,” without signifying a property classification.

preliminary evidentiary hearing devoted to determining the status of the greenhouses, the parties state, “*** bifurcation would clarify the parameter of the valuation proceeding and allow the parties to properly direct their respective appraisers as to the scope of their appraisal report. The bifurcation of the proceedings would also afford the parties an ample opportunity to litigate the issues involving the growing structures and allow this board to adequately address those issues.” Motion at 5.

Trial courts are free to order separate hearings of separate issues whenever it will further convenience, avoid prejudice, or be conducive to expedition and economy. *Fairfield Commons Condominium Assoc. v. Stasa* (1985), 30 Ohio App.3d 11. A trial court is in the best position to ascertain whether a bifurcation of the issues is necessary and that court, therefore, has broad discretion in doing so. *Id.* “The decision of whether or not to bifurcate the proceedings * * * is a matter within the sound discretion of the trial court.” *Sheets v. Norfolk S. Corp.* (1996), 109 Ohio App.3d 278, 288, citing *Heidbreder v. Trustees* (1979), 64 Ohio App.2d 95, 100.

While this board has previously bifurcated hearings, in these rare instances, it has done so only when the cases presented separate issues that required threshold legal or factual determinations. See, e.g., *Union Township v. Butler Cty. Budget Comm.* (Interim Order, Oct. 8, 1993), BTA No. 1992-M-1443, unreported (preliminary hearing ordered to first determine whether the county budget commission used a properly promulgated alternative formula); *W.W. Williams Co. v. Medina Cty. Bd. of Revision* (Interim Order, Oct. 20, 1995), BTA No. 1994-H-668, unreported (preliminary hearing ordered to first determine ability of county auditor to revalue and

reassess property for the second year of a triennial period after a complaint filed for the first year of the triennial resulted in a stipulation that was confirmed by this board). In this instance, we find that the parties have not demonstrated that separate issues exist to necessitate bifurcation, or that conducting separate hearings would result in judicial economy or the avoidance of prejudice.

In fact, it is common practice for opposing parties, who base their differing opinions of value on conceptual differences, to present all evidence through one hearing before this board. *Polaris Amphitheater Concerts, Inc. v. Delaware Cty. Bd. of Revision* (Jan. 26, 2007), BTA No. 2004-V-1294, unreported, appeal pending Sup. Ct. No. 07-347 (property owner argued buildings were personalty, while board of education/county argued buildings were part of realty); *Strongsville Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 112 Ohio St.3d 309, 2007-Ohio-6 (board of education argued that a recent sale indicated value of property, while property owner claimed the transaction was marked by the presence of duress). The board's charge is to find value and that charge is best carried out when conceptual distinctions are presented at the same time as value evidence.

We find, therefore, that the parties will be able to provide evidence of value, including evidence as to the property classification of greenhouses, through one hearing. The parties do not assert that prejudice would result by conducting one hearing. Accordingly, we deny the parties' motion to bifurcate an issue from trial.

ohiosearchkeybta