

OHIO BOARD OF TAX APPEALS

James McCabe,)	
)	
Appellant,)	CASE NO. 2007-A-1692
)	
vs.)	(REAL PROPERTY TAX)
)	
)	ORDER
Franklin County Board of Revision,)	
Franklin County Auditor, and Board of)	
Education of the Hilliard City Schools)	(Requiring Appellant to Show
District,)	Cause)
)	
)	
Appellees.)	

APPEARANCES:

For the Appellant - James McCabe, pro se
2910 Scioto Darby Executive Court
Hilliard, Ohio 43026

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

For the Appellee Bd. of Edn. - Rich, Crites & Dittmer, LLC
Mark H. Gillis
300 East Broad Street, Suite 300
Columbus, Ohio 43215

Entered January 14, 2009

This appeal is now considered, sua sponte, by the Board of Tax Appeals following a review of the statutory transcript filed by the county board of revision in the instant matter. The appellant appeals from a decision of the Franklin County

Board of Revision in which it determined the taxable value of the subject real property for tax year 2006. This board must now determine whether the BOR properly exercised jurisdiction over the decrease complaint filed by appellant because it appears that appellant's complaint for tax year 2006 was filed after the statutory deadline for doing so, i.e., March 31, 2007.

Specifically, appellant filed his original decrease complaint for tax year 2006 on June 19, 2007. In consideration of whether such filing was timely, we refer to R.C. 5715.19, which sets forth the period within which a complaint must be filed in order to timely contest a county auditor's determination of taxable value of real property. Specifically, R.C. 5715.19(A) provides in pertinent part:

“(1) Subject to division (A)(2) of this section, a complaint against any of the following determinations for the *current tax year* shall be filed with the county auditor *on or before the thirty-first day of March of the ensuing tax year* ***:

“ ***

“(d) The determination of the total valuation or assessment of any parcel that appears on the tax list ***.” (Emphasis added.)

Based upon the foregoing, it appears that Mr. McCabe did not file his decrease complaint for tax year 2006 in a timely manner with the BOR, thus failing to invoke the jurisdiction of the BOR. Cf. *MF Real Estate Partners LLC v. Cuyahoga Cty. Bd. of Revision* (Nov. 22, 2006), BTA No. 2006-A-1097, unreported; *Wenz v. Wood Cty. Bd. of Revision*, Wood App. No. WD-03-072, 2004-Ohio-2781. Accordingly, it is the order of this board that appellant show cause why this board should not remand the instant appeal to the Franklin County Board of Revision with

instructions to dismiss the underlying decrease complaint for failure to file such complaint with the BOR in a timely fashion.

All parties who wish to be heard upon the question of the legal sufficiency of Mr. McCabe's complaint filed with the board of revision shall file a written response to this order within fourteen days of its issuance. The parties should also note that until the instant jurisdictional question is resolved, the hearing in this matter, currently scheduled for January 20, 2009, at 9:00 a.m., shall be postponed, indefinitely.

ohiosearchkeybta