

OHIO BOARD OF TAX APPEALS

Wilford J. Gleason and Jean M. Gleason,)	CASE NO. 2007-B-1121
)	
)	
Appellants,)	(REAL PROPERTY TAX)
)	
vs.)	
)	ORDER
Erie County Board of Revision, Erie County Auditor and Berlin-Milan Local School District Board of Education,)	(Denying Motion to Exclude Party)
)	
Appellees.)	

APPEARANCES:

For the Appellants		- Black McCuskey Souers & Arbaugh, LPA Richard D. Dodez, Esq. 220 Market Ave., S., Suite 1000 Canton, Ohio 44702
For the County Appellees		- James R. Gorry, Esq. Attorney at Law 300 East Broad Street, Suite 300 Columbus, Ohio 43215
For the Appellee Bd. of Edn.		- Britton, Smith, Peters & Kalail Co., L.P.A. Karrie M. Kalail Susan R. Hartung Michael E. Stinn 3 Summit Park Drive, Suite 400 Cleveland, Ohio 44131

Entered March 10, 2009

This matter came on to be considered by the Board of Tax Appeals upon appellants' January 27, 2009 motion to dismiss the Erie County Board of Revision ("BOR") from participating in this appeal. The motion states as follows:

"Now comes Appellant and moves this Board to dismiss the Erie County Board of Revision as an active participant in

Appellant's [sic] Appeal of the Erie County Board of Revision's decision on Appellant's [sic] Complaint against valuation on the grounds that the Erie County Board of Revision did not notify all parties who were parties to the hearing in front of the Board of Revisions [sic] of Appellant's appeal or file proof of notice with the Board of Tax Appeals.

“Ohio Revised Code 5717.01 provides ‘Upon receipt of such notice of appeal such county board of revision shall by certified mail notify all persons thereof who were parties to the proceeding before such county board of revision, and shall file proof of such notice with the board of tax appeals’. In discussion with the hearing examiner, no such proof of such notice has been filed and I was not sent any such notice.

“The statutory requirement is jurisdictional and if Appellant fails to follow the statute, the appeal will be dismissed, See BTA Case No. 2004-T-587 attached hereto. If the Board of Revision fails to follow the statute the only logical consequence would be to forbid the Board of Revision from any participation in the Board of Tax Appeals hearing.”

The county appellees' response brief was filed herein under date of February 12, 2009.

We have reviewed appellants' motion and find it to be without merit.

Therefore, it is hereby denied.

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