

OHIO BOARD OF TAX APPEALS

Michael F. and Annette H. Kruty,)	
)	
Appellants,)	CASE NO. 2007-B-1409
)	
vs.)	(REAL PROPERTY TAX)
)	
Erie County Board of Revision)	ORDER
and Erie County Auditor,)	
)	(Requiring Appellants to Show
Appellees.)	Cause)

APPEARANCES:

For the Appellants	- Michael F. Kruty, pro se 10656 Prospect Road Strongsville, Ohio 44149
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For the County Appellees	- Rich & Gillis Law Group, LLC James R. Gorry, Esq. 300 E. Broad St., Suite 300 Columbus, Ohio 43215
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Entered February 17, 2009

This appeal is now considered, sua sponte, by the Board of Tax Appeals following a review of the notice of appeal filed herein by the above-named appellants, from a decision of the Erie County Board of Revision (“BOR”). In said decision, the BOR determined the taxable value of the subject property for tax year 2006.

Specifically, this board must determine whether it has jurisdiction to consider the instant matter. First, the county board of revision, in the statutory

transcript certified to this board, indicates that the BOR's decision was mailed to appellants on October 10, 2007. Appellants filed their notice of appeal with this board on November 9, 2007 by certified mail. However, the auditor's certification within the statutory transcript indicates that the appellants' notice of appeal was filed with the BOR on November 13, 2007.¹

R.C. 5717.01 specifically provides the jurisdictional requirements to appeal from a decision of a county board of revision to this board. It reads in pertinent part, as follows:

“An appeal from a decision of a county board of revision may be taken to the board of tax appeals *within thirty days after notice of the decision of the county board of revision is mailed* as provided in division (A) of section 5715.20 of the Revised Code. * * * Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, or authorized delivery service, with the board of tax appeals and with the county board of revision. ***”
(Emphasis added.)

The requirements of R.C. 5717.01 are specific and mandatory in nature. When a statute confers the right of appeal, adherence to the terms and conditions set forth therein is essential to the enjoyment of the right conferred. *Am. Restaurant and Lunch Co. v. Glander* (1946), 147 Ohio St. 147. The statutory requirements for filing a notice of appeal from a decision of a county board of revision are mandatory and jurisdictional. *Bd. of Edn. of Mentor v. Bd. of Revision* (1980), 61 Ohio St.2d 332. As strict compliance with R.C. 5717.01 is essential to vest jurisdiction with this board, it is therefore the order of this board that the appellants show cause why this board should not dismiss the instant appeal for failure to file a copy of such appeal with the

¹ November 13, 2007 was a Tuesday.

board of revision in a timely fashion. See *Hope v. Highland Cty. Bd. of Revision* (1990), 56 Ohio St.3d 68.

Secondly, the statutory transcript indicates that the appellants filed their original decrease complaint for tax year 2006 on April 4, 2007,² although signed and notarized on March 30, 2008. As we consider whether such filing was timely, we first 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 *** [.]”

The requirements of R.C. 5715.19 are specific and mandatory in nature. As strict compliance with R.C. 5715.19 is essential to vest jurisdiction with a board of revision, it is therefore the order of this board that the appellants show cause why this board should not order the Erie County Board of Revision to dismiss the subject complaint for failure to file in a timely fashion.

All parties who wish to be heard upon the question of the legal sufficiency of appellants' notice of appeal with this board shall file a written response to this order within fourteen days of its issuance.

² April 4, 2007 was a Wednesday.

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