

OHIO BOARD OF TAX APPEALS

Hough Area Partners in Progress)	CASE NO. 2007-H-1238
Community Development ¹)	
)	(REAL PROPERTY
Appellant,)	TAX EXEMPTION)
)	
vs.)	DECISION AND ORDER
)	
Richard A. Levin,)	
Tax Commissioner of Ohio,)	
)	
Appellee.)	

APPEARANCES:

For the Appellant - Consortium for Economic &
Community Development, Inc.
James Earl, Executive Director
8610 Hough Avenue
Cleveland, Ohio 44106

For the Appellee - Richard Cordray
Attorney General of Ohio
Sophia Hussain
Assistant Attorney General
State Office Tower, 25th Floor
30 East Broad Street
Columbus, Ohio 43215

Entered June 16, 2009

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

This matter is before the Board of Tax Appeals upon a motion to dismiss and affirm the appellee Tax Commissioner, in which the commissioner asserts appellant Hough Area Partners in Progress Community Development (“HAPP”) lacked standing to file an exemption application. This matter is now submitted to the board on the notice of appeal, the statutory transcript (“S.T.”) certified to the board by the

¹ Now known as Consortium for Economic and Community Development, Inc. (“CECD”).

Tax Commissioner, and the motion. HAPP did not file a response to the commissioner's motion.

HAPP filed an application in 2004 seeking real property tax exemption for that year. S.T. at 4. According to HAPP's discovery responses attached to the commissioner's motion, HAPP dissolved as a corporate entity in 2001. Motion at 4. In addition, in its notice of appeal, a CECD representative stated that the subject property is owned by CECD. Based on these representations, the commissioner argues this appeal should be dismissed since HAPP was not the property owner and did not have standing to file an exemption application. The commissioner concludes "[i]t is not in dispute that legal title to the property in question belongs to Consortium for Economic and Community Development, Inc." Motion at 3.

However, as the commissioner acknowledges, the record presents contradictory evidence that indicates HAPP did own the subject property in 2004. Principally, the 2004 Cuyahoga County Auditor's property record card for the parcel in question states HAPP as the subject's owner. S.T. at 17. While the auditor's records would indicate that a companion parcel was transferred from HAPP to CECD in July 2003, we find no evidence that the subject parcel was similarly transferred. Motion at appendix 5. Consequently, from the record before us, we are unable to conclude that HAPP lacked standing to file its exemption application.

While we decline to grant the commissioner's motion to dismiss, we nonetheless affirm the commissioner's determination for the same reasons stated in an order issued this date in *Consortium for Economic and Community Development, Inc. v. Wilkins*, our case number 2007-H-1217. Through that order, the board found the

appellant's notice of appeal failed to specify the error complained of in the commissioner's final determination.

The board finds the same to be true in the present appeal. Again, HAPP's only alleged specification of error stated in the notice of appeal concerns its status as a tax exempt non-profit organization, which we found in *Consortium*, supra, would not necessarily entitle property to exemption. The notice of appeal filed by HAPP set forth no other specific law or argument as to why property exemption should be granted based on commissioner error. Under R.C. 5717.02, a notice of appeal does not confer jurisdiction on this board to resolve an issue, unless that issue is clearly specified in the notice of appeal. *Lovell v. Levin*, 116 Ohio St.3d 200, 2007-Ohio-6054, at ¶35. Accordingly, the board finds that the appellant's notice of appeal fails to specify the error complained of in the Tax Commissioner's final determination. Following the statutes and case law in this matter, the board therefore finds that the commissioner's final determination must be, and hereby is, affirmed.

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