

**OHIO BOARD OF TAX APPEALS**

Liberty West, LLC,	)	CASE NO. 2007-M-1361
	)	
Appellant,	)	(REAL PROPERTY TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Butler County Board of Revision and the	)	
Butler County Auditor,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant -	Brandabur, Bowling & Crehan Co., LPA
	Michael J. Brandabur
	315 South Monument Avenue
	Hamilton, Ohio 45011

For the County	Robin N. Piper
Appellees -	Butler County Prosecuting Attorney
	Bob C. Roberts
	P.O. Box 515
	Hamilton, Ohio 45012

Entered June 23, 2009

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

On May 19, 2009, the Board of Tax Appeals sought input from the parties regarding potential jurisdictional issues affecting the above-captioned appeal. The issue before this board relates to the ability of a property owner to challenge a change to value when made by an auditor as a result of a clerical error. No further legal argument has been provided. Therefore, this matter is now considered upon the statutory transcript submitted to this board by the Butler County Auditor and the “show cause” order.

The statutory transcript indicates that the genesis of this appeal was a letter from a deputy auditor to the property owner, Liberty West LLC, dated October 12, 2007,

through which the county explained that as a result of a clerical error, an increase to the true value of parcel no. P6411-063.000-038 from a total true value of \$15,750 to a total true value of \$440,830 for 2005 and from a total true value of \$15,750 to a total true value of \$448,310 for 2006 had been effected. The letter explained that the reason for the adjustment was “Situs Correction: improvements added on wrong parcel.” R.C. 319.36 was provided to the property owner as authority for the revaluation. The letter indicated that as a result of the correction, additional taxes were due.

The property owner, within 30 days of its receipt of the letter from the deputy auditor, filed a notice of appeal with this board. The property owner identified the years 2005/2006 as the years in issue and does not seek a return to the value originally assessed by the auditor. Instead the property owner claims that the correct value for the subject parcel is \$250,000.<sup>1</sup> This amount indicates to this board that it was not the auditor’s actions of adding any value to parcel no. P6411-063.000-038 that the property owner takes issue with – it was the specific value that the auditor added to the parcel that the property owner now challenges.

Stated simply, it appears that the property owner is attempting to challenge an action of the Butler County Auditor by an appeal directly to this board without first filing a complaint with the BOR. Our authority extends only to those responsibilities statutorily prescribed by the General Assembly, which includes a review of decisions of BORs for specific purposes. R.C. 5703.02; R.C. 5717.01; *JRR & R Inc. v. Cuyahoga*

*Cty. Bd. of Revision* (Oct. 21, 2005), BTA No. 2005-M-556, unreported. We have held in the past that a correction of a clerical error is not properly reviewable by this board, even if that correction is first placed before a board of revision pursuant to R.C 319.36. *Blommel v. Green Cty. Bd. of Revision* (Mar. 18, 1999), BTA No. 1998-G-636, unreported. See, also, *Complete General Construction v. Franklin Cty. Bd. of Revision* (July 22, 1987), BTA Nos. 1985-E-204, et seq., unreported (an auditor's determination that property was omitted property and added to the tax list cannot be appealed to the board of revision under R.C. 5715.19).

We note that the letter to the property owner from a deputy auditor was written on stationery identifying the sender as the Butler County Board of Revision. Communications in such a fashion can create additional confusion for the property owner. Nevertheless, the property owner's intent remains unclear. If its intent was to challenge value, it must file first with the BOR, following the requirements found in R.C. 5715.19. If the property owner's intent was to challenge the clerical error, it must do so in a venue other than the Board of Tax Appeals. This board finds that the notice of appeal filed with this board failed to vest jurisdiction. The matter is dismissed.

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*Footnote contd.*

<sup>1</sup> The property owner may be claiming that the true value for tax year 2005 is \$233,360. This amount is listed in the box that seeks the appellant's claimed taxable values, but the values listed are clearly not 35 percent of the property owner's claimed market values.