

**OHIO BOARD OF TAX APPEALS**

Board of Education for the Willoughby-	)	CASE NO. 2007-M-1605
Eastlake City School District,	)	
	)	(REAL PROPERTY TAX)
Appellant,	)	
	)	ORDER
vs.	)	
	)	(Finding Jurisdiction)
Lake County Board of Revision, the	)	
Lake County Auditor, and	)	
Martin Kaufman,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant -	Brindza McIntyre & Seed LLP. Jennifer A. Hoehnen 1111 Superior Avenue, Suite 1025 Cleveland, Ohio 44114
For the County - Appellees -	Charles E. Coulson Lake County Prosecuting Attorney Eric A. Condon Assistant Prosecuting Attorney Administration Building P.O. Box 490 Painesville, OH 44077
For the Appellee - Property Owner	Martin Kaufman <sup>1</sup> 4665 Beidler Road Willoughby, Ohio 44094

Entered February 6, 2009

This appeal is before the Board of Tax Appeals as a result of a “motion to remand” filed by the appellant, Willoughby-Eastlake City School District Board of Education (“BOE”). The BOE seeks a remand of this appeal to the Lake County

---

<sup>1</sup> The law firm of Ranallo & Aveni LLC filed a notice of withdrawal of counsel in this matter on May 5, 2008. Additionally, there has been an allegation that title to the property has transferred after the filing of the original complaint. As R.C. 5717.03(B) requires this board to certify its ultimate

Board of Revision (“BOR”), with instructions to dismiss the underlying complaint, which was the origin of this appeal. The BOE claims that the complaint should have been dismissed by the BOR because it did not vest jurisdiction with that body. The matter is considered upon the notice of appeal, the statutory transcript certified by the Lake County Auditor as secretary of the BOR, and the BOE’s motion to remand. The appellee property owner did not enter a response.

The complaint which was the genesis of this matter was filed on March 29, 2007 and identified the owner of the property as Martin M. Kaufman. S.T. Ex. A. The BOE claims that Mr. Kaufman was “deceased at the time of the BOR hearing.”<sup>2</sup> Appellant’s brief at 1. Additionally, the BOE asserts that the subject property transferred on December 24, 1997, to “Kaufman I Limited Partnership.” *Id.* Therefore, the BOE asserts that the correct owner of the property was Kaufman I Limited Partnership, and not Martin M. Kaufman.

This board must now determine whether the BOR properly accepted jurisdiction. It is well settled that in order for a complaint to be valid, it must include all information that goes to the core of procedural efficiency. *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision* (1998), 80 Ohio St.3d 591; *Trotwood-Madison City School Dist. v. Montgomery Cty. Bd. of Revision* (June 30, 1997), BTA No. 1995-S-

Footnote contd. \_\_\_\_\_  
determination to “the person in whose name the property is listed,” the appellee property owner is ordered to disclose the current titleholder of the subject property.

<sup>2</sup> The BOE also claims through its brief that Martin M. Kaufman was deceased at the time of the filing of the complaint. The board does not find either claim supported by the record. Even if Martin Kaufman was deceased at the time of the filing of the complaint, his name remained on the county records, allowing the auditor to identify the subject property and fulfill his obligations as secretary of the BOR.

1282, unreported; *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Dec. 18, 1998), BTA No. 1998-J-481, unreported, reversed on other grounds, (2000), 87 Ohio St.3d 363; *Ritz Carlton Hotel Partnership v. Cuyahoga Cty. Bd. of Revision* (May 11, 2001), BTA No. 1998-L-355, unreported. Core jurisdictional information must be provided to the county board of revision through the complaint so that the auditor may fulfill the statutory notice obligations imposed on that office. *Cleveland Elec. Illum. Co.*, supra.

A complaint must name at least one owner of the property on the face of the complaint form in order to satisfy the core jurisdictional requirements. *Trotwood-Madison City School Dist.*, supra; *Cedar Heights Co. v. Cuyahoga Cty. Bd. of Revision* (July 20, 2001), BTA Nos. 2000-J-1714, 2002-J-1774. However, the complaint must name only one owner, and not all the owners of the subject property. *City of Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision*. (Jan. 22, 1999), BTA No. 1998-L-138, unreported. The issue in this appeal, therefore, is whether the line one of the complaint names at least one property owner. Additionally, the complaint must name an owner at the time the complaint is filed. *Public Square Tower One v. Cuyahoga Cty. Bd. of Revision* (1986), 34 Ohio App.3d 49.

The BOE argues that Mr. Kaufman was deceased at the time of the BOR hearing and, further the property transferred prior to the BOR hearing. The BOE has not directed the board to either statutory or case law which holds that a complaint once properly filed somehow loses effect once a property owner dies or

transfers the property. In fact, the board considers cases in which the property is sold between the time a complaint is filed and the ultimate conclusion of an appeal. See e.g., *Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision*, 114 Ohio St.3d 1224, 2007-Ohio-4007. Therefore, the board does not find the death of an owner after a complaint has been filed to affect the jurisdictional validity of the process.

Nor does the board find a transfer of the property after the filing of a complaint fatal to the process. In this appeal, however, the BOE has not brought forth sufficient evidence that Martin Kaufman is no longer a titled owner of the property. In fact, documentation attached to the BOE's motion to dismiss filed with the BOR suggests that as of December 24, 1997, a deed was filed with the Lake County Recorder that transferred title from Martin M. Kaufman and Rosalyn Kaufman to Martin M. Kaufman, Rosalyn Kaufman, and Kaufman I Limited Partnership. S.T. Ex. F, Attachments. This information contradicts the BOE's statement of facts, which suggests that the grantee in the deed was only Kaufman I Limited Partnership. BOE's Brief, at 1.

The auditor's certification indicates that the property was listed in the name of Martin M. Kaufman, and the property record card<sup>3</sup> included within the

---

<sup>3</sup> The property record card and parcel maintenance computer screen both report the owner's name as "Kaufman Martin M @(3)." A notation such as the one found on these documents suggests that title is held in the name of three persons or entities. That notation is supported by the documentation attached to the BOE's motion to dismiss filed with the BOR.

statutory transcript as Exhibit C indicates that the Martin M. Kaufman was an owner.

Therefore, the board finds the BOE's claims without support.

The BOE's motion to remand is denied and the matter will be heard on March 25, 2009, as indicated by the board's notice of merit hearing mailed December 30, 2008.

ohiosearchkeybta