

OHIO BOARD OF TAX APPEALS

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| 1409 Amherst Road LLC, |) | CASE NO. 2007-T-1775 |
| |) | |
| Appellant, |) | (REAL PROPERTY TAX) |
| |) | |
| vs. |) | ORDER |
| |) | |
| Stark County Board of Revision, |) | (Continuing Hearing and |
| Stark County Auditor, and Massillon City |) | Extending Discovery Period) |
| School District Board of Education, |) | |
| |) | |
| Appellees. |) | |

APPEARANCES:

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| For Appellant - | Siegel, Siegel, Johnson & Jennings Co., L.P.A. Steven J. Vivarronda 25700 Science Park Drive, Suite 210 Cleveland, Ohio 44122-7328 |
| For the Appellee Bd. of Edn. - | Means, Bichimer, Burkholder & Baker Co., L.P.A. Robert Morrow 2006 Kenny Road Columbus, Ohio 43221-3502 |
| For the County Appellees - | John D. Ferrero Stark County Prosecuting Attorney David M. Bridenstine Assistant Prosecuting Attorney 110 Central Plaza South, Suite 510 Canton, Ohio 44702 |

Entered June 23, 2009

The Massillon City School District Board of Education has filed a request to continue the July 1, 2009 hearing previously scheduled in this matter and to reopen the discovery period for an additional ninety days. No response to the request has been filed.¹

¹ 1409 Amherst Road LLC has, however, filed a separate continuance request.

1409 Amherst filed its notice of appeal with this board on December 27, 2007. However, Massillon represents that the board of revision failed to notify the BOE that an appeal had been filed from the actions of the Stark County BOR.² Massillon, a counter-complainant before the BOR, represents that it recently learned of the pending appeal. It filed an entry of appearance on June 16, 2009, at which time it requested that the merit hearing be continued and that it be provided an opportunity to conduct discovery.

Upon review, this board finds good cause to grant Massillon's requests. Compare *Sam's Real Estate Business Trust v. Lorain Cty. Bd. of Revision* (Interim Order, Apr. 21, 2009), BTA No. 2007-T-1455, unreported. Therefore, 1) pursuant to Ohio Adm. Code 5717-1-15, the July 1, 2009 hearing is hereby continued; and, 2) pursuant to Ohio Adm. Code 5717-1-11, the BTA hereby extends the discovery period to September 30, 2009, which shall be the last date upon which a party may seek board involvement in any discovery matter.

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² R.C. 5717.01 provides that, upon the filing of its copy of the notice of appeal, the "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." The transcript filed with this board from the BOR does not contain proof that the notice has been sent.