

OHIO BOARD OF TAX APPEALS

Middletown City School District Board of Education,)	CASE NO. 2007-Z-1119
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Warren County Board of Revision, Warren County Auditor, and Robin Springs Acquisition, L.P.,)	Dismissed on Appeal May 11, 2009 Ohio Supreme Court No. 2008-2253
)	
Appellees.)	

APPEARANCES:

For the Bd. of Edn.	-	Frost Brown Todd LLC Samuel M. Scoggins 2200 PNC Center 201 East Fifth Street, Suite 2200 Cincinnati, Ohio 45202
For the County Appellees	-	Rachel A. Hutzler Warren County Prosecuting Attorney Christopher A. Watkins Assistant Prosecuting Attorney 500 Justice Drive Lebanon, Ohio 45036
For the Property Owner	-	Strauss & Troy Franklin A. Klaine, Jr. The Federal Reserve Building 150 East Fourth Street Cincinnati, Ohio 45202

Entered October 21, 2008

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

This matter is now before the Board of Tax Appeals upon a motion filed by the appellant, Middletown City School District Board of Education (“BOE”), wherein the BOE moves this board to remand this matter with instructions to dismiss

the underlying complaint. The BOE argues in its motion that the original complaint filed with the Warren County Board of Revision (“BOR”) failed to invoke the jurisdiction of the BOR. The county appellees and the property owner filed responses to the BOE’s motion with this board.

In its motion to remand, the BOE argues that the complaint failed to properly invoke the jurisdiction of the BOR because (1) the complaint failed to identify the property owner; (2) the complaint was not filed by an authorized complainant; and (3) the complaint was not prepared and filed by an attorney-at-law. The responses filed by the county appellees and the property owner argue that the jurisdiction of the BOR was properly invoked despite the manner in which the complaint was prepared.

Our review of the record in this appeal reveals that a complaint was filed with the BOR on March 31, 2007 for tax year 2006. S.T. at Ex. A. Line 1 of the complaint which asks for the “[o]wner of home” was left blank. Id. “Daniel Gorman” is listed on Line 2 of the complaint which asks for the “[c]omplainant if not owner.” Id. “Member of Robin Springs Acquisition, [sic] LLC, General Partner” is reflected on Line 5 of the complaint which asks for the “[c]omplainant’s relationship to property if not owner.” Id. Attached to the complaint is a “Master Closing Disbursement Statement” which appears to memorialize the sources and uses of funds in connection with the acquisition of the subject property. Id. The complaint appears to have been signed by Mr. Gorman. Id.

The BOE filed a counter-complaint with the BOR and attached thereto its jurisdictional challenges to the original complaint which are the same as those set

forth in its motion to remand filed with this board. The written transcript of the hearing before the BOR included in the statutory transcript reveals that the jurisdictional issues raised by the BOE were discussed at said hearing. The BOR ultimately concluded that its jurisdiction was properly invoked and proceeded to determine value of the subject parcels. S.T. at E. This appeal by the BOE ensued.

The BOE's first argument in support of its challenge to the BOR's jurisdiction is that the property owner was not properly identified on Line 1 of the complaint. Indeed, the property owner was not identified at all on the face of the complaint. S.T. at Ex. A. The property owner acknowledges that it did not list its name on Line 1 of the complaint. The property owner explained that Line 1 of the complaint asked for the "[o]wner of home" and that the parcels at issue are not homes but rather are commercial property. Likewise, the county appellees acknowledge that the property owner was not identified on Line 1 of the complaint and further acknowledge that the county's form of complaint caused confusion in this regard.¹

Notwithstanding the failure to identify the property owner on the complaint, we believe that the pivotal issue in this case is the BOE's second argument challenging the BOR's jurisdiction, that the complainant lacked standing to file the complaint.

All of the parties acknowledge that Robin Springs Acquisition, L.P. is the owner of the property. The property owner explained that Robin Springs Acquisition, L.P. is a limited partnership and that Mr. Gorman is the sole member of

¹ The county appellees indicated in their response that Line 1 of the complaint form utilized by Warren County has since been amended to read "Owner of Property."

Robin Springs Acquisition, LLC, which is the general partner of Robin Springs Acquisition, L.P.

The BOE argues that Mr. Gorman, who is listed on Line 2 of the complaint as the complainant, lacks the necessary standing to file the complaint. Notwithstanding Line 5 of the complaint reflecting “Member of Robin Springs Acquisition, [sic] LLC, General Partner,” the BOE argues that Mr. Gorman is not an authorized complainant.

In determining whether Mr. Gorman had standing to file the complaint, we must consider R.C. 5715.13, which provides as follows:

“The county board of revision shall not decrease any valuation unless a party affected thereby or who is authorized to file a complaint under section 5715.19 of the Revised Code makes and files with the board a written application therefor, verified by oath, showing the facts upon which it is claimed such decrease should be made.”

Additionally, R.C. 5715.19(A)(1)(e) provides, in pertinent part, as follows:

“Any person owning taxable real property in the county or in a taxing district with territory in the county *** may file such a complaint regarding any such determination affecting any real property in the county ***.”

The property owner argues that Mr. Gorman is a “party affected” under R.C. 5715.13 since he is the sole member of the limited liability company that is the general partner of the limited partnership-property owner. While there is authority for the argument that a general partner of a limited partnership-property owner is a “party affected” under R.C. 5715.13, such authority does not go so far as to deem the sole member of a limited liability company that is the general partner of a limited

partnership-property owner a “party affected” under R.C. 5715.13. See *Bridgeview Villas II Ltd. Ptr. v. Franklin Cty. Bd. of Revision* (July 29, 2005), BTA No. 2004-P-1146, unreported. Similarly, based on the record before us, we cannot extend our holding in *Bridgeview Villas*, supra, to deem Mr. Gorman, the sole member of a limited liability company that is the general partner of a limited partnership-property owner, a “party affected” under R.C. 5715.13.

In the instant matter, based on the existing record before us, we find that Mr. Gorman lacked the requisite standing to file the complaint. Accordingly, the complaint at issue in this matter failed to invoke the jurisdiction of the BOR. Because we find that Mr. Gorman lacked standing to file the complaint and that the BOR’s jurisdiction was not properly invoked, the other arguments raised by the BOE (the complaint failed to identify the property owner and the complaint was not prepared and filed by an attorney-at-law) need not be fully addressed herein.

Based on the foregoing, it is the order of the Board of Tax Appeals that the BOE’s motion is hereby granted and this matter is hereby remanded to the BOR with instructions to dismiss the underlying complaint.

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