

**OHIO BOARD OF TAX APPEALS**

Michael D. Yutzy,	)	CASE NO. 2007-Z-849
	)	
Appellant,	)	(REAL PROPERTY TAX)
	)	
vs.	)	ORDER
	)	
Lake County Board of Revision	)	(Requiring Appellant to Show Cause)
and Lake County Auditor,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant	-	Michael D. Yutzy, pro se 37946 Elm Street Willoughby, Ohio 44094
For the County Appellees	-	Charles E. Coulson Lake County Prosecuting Attorney Eric A. Condon Assistant Prosecuting Attorney 105 Main Street P.O. Box 490 Painesville, Ohio 44077

Entered January 20, 2009

This appeal is now considered by the Board of Tax Appeals following a review of the notice of appeal filed herein by the above-named appellant, from a decision of the Lake County Board of Revision. In said decision, the board of revision determined the taxable value of the subject property for tax year 2006. Specifically, this board must determine whether it has jurisdiction to consider the instant matter.

The appellant attached to his notice of appeal filed with this board a copy of an envelope addressed to him from the county mailed regular mail and postmarked August 24, 2007 thereby implying that the county board of revision mailed its decision to him on such date. In contrast, the county board of revision indicated, in the statutory transcript certified to this board, that the board of revision's decision was mailed by way of certified mail to the appellant on July 23, 2007. Included in the statutory transcript is a copy of the certified mail receipt used by the county to mail its decision to the appellant by way of certified mail. The postmark date on such copy, however, is not legible. The county provided additional information to this board by way of letter dated April 15, 2008 including an enlarged copy of the certified mail receipt reflecting the postmark date of July 23, 2007.<sup>1</sup> Likewise, a stamp appears on the county board of revision's decision indicating that it was mailed on July 23, 2007.

The appellant filed his notice of appeal with both this board and the county board of revision on August 29, 2007. The appellant used an authorized delivery service to file his notice of appeal with this board and the county board of revision. Accordingly, the date of receipt recorded by the authorized delivery service is the deemed filing date. See R.C. 5717.01. Thus, it appears as though the county board of revision mailed its decision by way of certified mail on July 23, 2007 to the appellant and the appellant filed his notice of appeal with this board and the county

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<sup>1</sup> Prior to forwarding the April 15, 2008 letter and attachments thereto to this board, the county contacted this board by way of phone to notify this board that it would be sending additional material regarding the date on which the county board of revision mailed its decision to the appellant. At this time, the county indicated that its customary practice is to mail its decisions by way of certified mail and not regular mail.

board of revision on August 29, 2007, or 37 days after the date on which the county board of revision mailed its decision.

R.C. 5717.01 specifically provides the jurisdictional requirements to appeal from a decision of a county board of revision to this board. It reads, in pertinent part, as follows:

“An appeal from a decision of a county board of revision may be taken to the board of tax appeals *within thirty days* after notice of the decision of the county board of revision is mailed as provided in division (A) of section 5715.20 of the Revised Code. \*\*\* Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, or authorized delivery service, with the board of tax appeals *and* with the county board of revision. \*\*\*”  
(Emphasis added.)

When a statute confers the right of appeal, adherence to the terms and conditions set forth therein is essential to the enjoyment of the right conferred. *Am. Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147. The statutory requirements set forth in R.C. 5717.01 for filing a notice of appeal from a decision of a county board of revision are mandatory and jurisdictional. *Bd. of Edn. of Mentor v. Bd. of Revision* (1980), 61 Ohio St.2d 332. Strict compliance with R.C. 5717.01 is essential to vest jurisdiction with this board.

Upon review of the foregoing, it appears as though the appellant filed his notice of appeal with this board and the county board of revision after the expiration of the thirty-day deadline established by statute. Accordingly, the Board of Tax Appeals orders the appellant to show cause as to why this appeal should not be dismissed.

All parties who wish to be heard upon the question of the legal sufficiency of the subject notice of appeal with this board shall file a written response to this order *within fourteen days of its issuance*.

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