

OHIO BOARD OF TAX APPEALS

Timothy N. Goubeaux,)
)
 Appellant,)
)
 vs.)
)
 Highland County Board of Revision)
 and Highland County Auditor,)
)
 Appellees.)

CASE NOS. 2007-Z-906
2007-Z-907
2007-Z-908

(REAL PROPERTY TAX)

ORDER

(Scheduling Hearing on the Show Cause Order and on the Merits)

APPEARANCES:

For the Appellant - Timothy N. Goubeaux, pro se
775 Norwich Road
Vandalia, Ohio 45377

For the County Appellees - Rich, Crites & Dittmer, LLC
James R. Gorry
Mark Gillis
300 East Broad Street, Suite 300
Columbus, Ohio 43215

Entered February 6, 2009

These appeals are now being considered following the issuance of an order on January 20, 2009 requiring the appellant to show cause as to why this board should not dismiss the instant appeals for failure to file the notices of appeal with the county board of revision within 30 days after the date on which the county board of revision mailed its decision to the appellant. The appellant filed a response to the show cause order with this board. The county appellees did not do so.

The Highland County Auditor (“auditor”), in the statutory transcript certified to this board, indicates that the decision of the Highland County Board of Revision (“BOR”) was mailed to the appellant by way of certified mail on August 17, 2007 and that the appellant did not file his notices of appeal with the BOR until September 24, 2007, or 38 days after August 17, 2007. In the alternative, the auditor and the BOR may have orally represented to this board that the appellant failed to file his notices of appeal with BOR altogether. In either case, the auditor and the BOR argue that the appellant did not satisfy the requirements set forth in R.C. 5717.01.

The appellant filed a response to the show cause order in which he indicated that he hand delivered his notices of appeal to the auditor on September 14, 2007, or 28 days after August 17, 2007. The appellant further indicated that he personally gave his notices of appeal to the auditor, Mr. Fawley. The appellant acknowledged not obtaining a date-stamped copy from the auditor but nevertheless represented that he provided his notices of appeal to the auditor. The appellant filed his notices of appeal with this board by way of certified mail on September 13, 2007, or 27 days after August 17, 2007.

This board must determine whether it has jurisdiction to consider the instant matters. 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.)

The requirements of R.C. 5717.01 are specific and mandatory in nature.

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 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. See *Hope v. Highland Cty. Bd. of Revision* (1990), 56 Ohio St.3d 68.

Based on the representations made by the parties, it is the order of this board that a hearing be convened at which time (1) both parties may present evidence as to whether the appellant's notices of appeal were timely filed with the BOR pursuant to the requirements of R.C. 5717.01 and (2) both parties may present evidence as to the value of the subject property. Said hearing will be held on March 12, 2009 beginning at 9:00 am at the offices of the Board of Tax Appeals, 30 East Broad Street, 24th Floor, Columbus, Ohio 43215.

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