

OHIO BOARD OF TAX APPEALS

Board of Education of the Hilliard City Schools,)
)
)
 Appellant,)
)
 vs.)
)
 Franklin County Board of Revision,)
 Franklin County Auditor, and James)
 Kuhlwein,)
)
 Appellees.)

CASE NO. 2008-A-1641
(REAL PROPERTY TAX)
ORDER
(Compelling Discovery)

APPEARANCES:

- For the Appellant - Rich, Crites & Dittmer, LLC
Mark H. Gillis
300 East Broad Street, Suite 300
Columbus, Ohio 43215

- For the County Appellees - Ron O'Brien
Franklin County Prosecuting Attorney
Paul M. Stickel
Assistant Prosecuting Attorney
373 South High Street, 20th Floor
Columbus, Ohio 43215

- For the Appellee Property Owner - James K. Leonard
Attorney at Law
4266 Tuller Road, Suite 101
Dublin, Ohio 43017

- Copy to - James R. Kuhlwein, pro se
1859 Walker Road
Hilliard, Ohio 43026

Entered January 13, 2009

This cause and matter came on to be considered by the Board of Tax Appeals upon a motion to compel discovery filed by the appellant board of education.

The motion provides, in pertinent part:

“Now comes Appellee [sic] Board of Education of the Hilliard City School District (BOE), and moves this Board for an order to compel Appellant [sic] property owner James R. Kuhlwein to respond to the Appellee [sic] Board of Education of the Hilliard City School District’s request for the inspection of documents and to provide answers to interrogatories.”

In its motion, the board of education indicated that it served upon the appellee property owner, James Kuhlwein, a request for production of documents and interrogatories on October 7, 2008. Thereafter, by letters dated November 10, 2008 and December 10, 2008, the board of education requested that the property owner comply with its earlier discovery requests, since no responses had been received. The property owner failed to respond to the board of education’s inquiries. Further, the property owner has also failed to respond to this board regarding the instant motion to compel.

Ohio Adm. Code 5717-1-11, which sets forth this board’s rule for allowing discovery, provides in pertinent part:

“(A) Discovery may be permitted by deposition upon oral examination or written questions; written interrogatories; production of documents or tangible things or permission to enter upon land or other property; and requests for admissions. The ‘Ohio Rules of Civil Procedure’ shall be followed for discovery purposes to the extent they are not inconsistent with other board rules * * *.”

Based upon our previous interpretations of the foregoing section, this board would normally expend considerable time and effort addressing each interrogatory and documentary request set forth in the board of education's motion to compel to determine whether such items or information would be properly compelled. However, in this instance, given that the property owner has apparently failed to respond to the board of education's informal discovery requests as well as its motion to compel, we will not undertake to provide such analysis. *Gerimi Co. v. Cuyahoga Cty. Bd. of Revision* (Jan. 4, 1995), BTA No. 1994-K-1030, unreported; *Independence Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Sept. 2, 1994), BTA No. 1994-A-106, unreported. As the information sought by the board of education is not patently undiscoverable and is reasonably relevant to the subject matter involved in this appeal, this board finds that the appellant board of education's motion to compel discovery is well taken.

Accordingly, the motion to compel is hereby granted. It is therefore the order of the Board of Tax Appeals that the property owner, within fourteen days of the issuance of this order, shall respond to the board of education's discovery request by submitting the requested documents and providing the requested information.

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