

OHIO BOARD OF TAX APPEALS

Spirit Master Funding IV, LLC)	CASE NO. 2008-A-2230
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	ORDER
)	
Montgomery County Board of Revision,)	(Compelling Discovery)
Montgomery County Auditor, and the)	
Dayton School District Board of)	
Education,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant		- Siegel Siegel Johnson & Jennings Co., LPA Nicholas M.J. Ray 3001 Bethel Road, Suite 208 Columbus, Ohio 43220-1867
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For the County Appellees		- Mathias H. Heck, Jr. Montgomery County Prosecuting Attorney Nolan Thomas Assistant Prosecuting Attorney 301 West Third Street P.O. Box 972 Dayton, Ohio 45422
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For the Appellee Board of Education		- David C. DiMuzio, Inc. David C. DiMuzio 1900 Kroger Building 1014 Vine Street Cincinnati, Ohio 45202
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Entered March 24, 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 appellee board of education. The motion provides, in pertinent part:

“On December 5, 2008, Appellee’s counsel mailed Appellee’s First Set of Interrogatories and Document Requests to Appellant’s counsel. *** No response was received, so a letter was sent *** on January 9, 2009 requesting that all responses be in by January 19, 2009 to avoid a Motion to Compel.

“It is now late February, and no responses have been sent. The requests are reasonable, and involve standard discovery needs. We request that the Board issue an order compelling full responses, under oath, from the Appellant.”

In its motion, the board of education indicated that it served upon the appellant Spirit Master Funding IV, LLC (“Spirit Master”) a request for production of documents and interrogatories on December 5, 2008. Thereafter, by letter dated January 9, 2009, the board of education requested that Spirit Master 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, Spirit Master 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 Spirit Master 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 appellee 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 Spirit Master, 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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