

## OHIO BOARD OF TAX APPEALS

CadleRock Joint Venture, L.P.,	)	CASE NO. 2008-A-2242
	)	
Appellant,	)	(REAL PROPERTY TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Montgomery County Board of Revision	)	
and Montgomery County Auditor,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant	-	Greg Cadle, pro se CadleRock Joint Venture, L.P. 100 North Center Street Newton Falls, Ohio 44444
For the County Appellees	-	Mathias H. Heck, Jr. Montgomery County Prosecuting Attorney Laura G. Mariani Assistant Prosecuting Attorney 301 West Third Street P.O. Box 972 Dayton, Ohio 45422
Copy to	-	Jesus Church 1420 East 4 <sup>th</sup> Street Dayton, Ohio 45402

Entered May 19, 2009

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

This appeal is now considered by the Board of Tax Appeals following the issuance of this board's order requiring appellant "to show cause why this board should not order that the instant matter be remanded to the Montgomery County Board

of Revision with instructions to dismiss the original complaint.” Interim Order, Jan. 27, 2009, at 5. Appellant has attempted to appeal from a decision of the Montgomery County Board of Revision in which that board determined the taxable value of the subject property for tax year 2007.

The statutory transcript certified to this board by the BOR reflects that pursuant to R.C. 5715.19, an original complaint for tax year 2007 was filed on March 31, 2008, regarding property owned by Jesus Church. S.T., Ex. A. On the original complaint, the church is properly<sup>1</sup> listed as the owner of the subject property on Line 1 of the complaint. Id. On Line 2 of the complaint, “CadleRock Joint Venture, L.P.” is listed as the complainant, if not the owner. Line 3, for the complainant’s agent, lists “Greg Cadle” and Line 5, for the complainant’s relationship to property if not owner, indicates “1<sup>st</sup> mortgage holder.” Id. The complaint was signed by Mr. Cadle, who listed his title as “account officer.” No counter-complaint was filed.

On July 23, 2008, the BOR rendered its decision wherein it made no change to the subject property’s value for tax year 2007. S.T., Ex. E. Unsatisfied with the valuation determination rendered by the BOR, CadleRock Joint Venture, L.P. (“CadleRock”) appealed the BOR’s decision to this board.

R.C. 5715.13 outlines who has standing to file a decrease complaint and provides that “[t]he 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

---

<sup>1</sup> The certified property record card included in the statutory transcript reflects “Jesus Church” as the owner of the subject property. S.T., Ex. C.

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.” Furthermore, with regard to who may file a complaint, R.C. 5715.19 provides that “[a]ny person owning taxable real property in the county or in a taxing district with territory in the county” may file a complaint or “a person owning taxable real property in another county may file such a complaint only with regard to any such determination affecting real property in the county that is located in the same taxing district as that person’s real property is located.”

Specifically, the Supreme Court has held that “[c]omplainants must fully comply with R.C. 5715.19 and 5715.13 before a county board of revision may act on their claims.” *Middleton v. Cuyahoga Cty. Bd. of Revision* (1996), 74 Ohio St.3d 226, 227. The court determined that “[s]ince R.C. 5715.19 is a general statute providing who may complain about various actions taken by the auditor, R.C. 5715.13, a special statute which restricts a board of revision’s power to reduce property values, controls the filing of complaints seeking decreases in a property’s value.” *Id.* Accordingly, pursuant to R.C. 5715.13, in a case in which a decrease in property valuation is sought, a complainant must be “a party affected thereby” or a person who is authorized to file a complaint pursuant to R.C. 5715.19. See, also, *Soc. Natl. Bank v. Wood Cty. Bd. of Revision* (1998), 81 Ohio St.3d 401.

Thereafter, due to changes made to R.C. 5715.13, in *Lewell, LLC v. Montgomery Cty. Bd. of Revision* (Jan. 16, 2004), BTA No. 2002-V-1613, unreported, this board held:

“In *Middleton v. Cuyahoga Cty. Bd. of Revision* (1996), 74 Ohio St.3d 226, 227, the Ohio Supreme Court construed R.C. 5715.13, holding that a non-owner cannot file a decrease complaint and that ‘Complainants must fully comply with R.C. 5715.19 and 5715.13 before a county board of revision may act on their claims.’ However, subsequent to *Middleton*, the legislature amended R.C. 5715.13, effective March 30, 1999, by expanding upon who may file decrease complaints, adding to the ‘party affected thereby’ requirement by including the additional language of ‘or who is authorized to file a complaint under section 5715.19 of the Revised Code \*\*\*.’ Therefore, given the disjunctive ‘or,’ a party filing a decrease complaint need not be a party affected thereby. A complainant need only be a party authorized to file complaints by R.C. 5715.19.” *Id.* at 3.

See, also, *Cleveland Mun. School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, June 11, 2004), BTA Nos. 2003-M-1092, 1093, unreported.

Most recently, however, the Supreme Court in *Village Condominiums Owners Assn. v. Montgomery Cty. Bd. of Revision*, 106 Ohio St.3d 223, 2005-Ohio-4631, revisited *Soc. Natl. Bank*, supra, wherein it held that “[t]he two statutes of primary importance when considering the standing of a party to file a complaint for a decrease in valuation with a board of revision are R.C. 5715.19 and 5715.13.” It went on to indicate that “a complainant must first demonstrate that pursuant to R.C. 5715.19(A)(1), he or she is a ‘person owning taxable real property in the county.’<sup>2</sup>” *Soc. Natl. Bank*, 81 Ohio St.3d at 404 \*\*\*. If the complainant satisfies this ‘threshold standing requirement,’ a court will then consider whether he or she meets the requirements of R.C. 5715.13, which provides, ‘The county board of revision shall not

---

<sup>2</sup> “This statute also authorizes others to file a complaint \*\*\*.”

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 \*\*\*.’ Id.”

Based upon the foregoing and with no evidence that CadleRock Joint Venture, L.P. owns real property in Montgomery County or otherwise properly qualifies as a complainant pursuant to the provisions of R.C. 5715.19(A)(1) and with no response from CadleRock indicating otherwise, we must presume that the original complaint filed by CadleRock with the Montgomery County Board of Revision did not vest the BOR with jurisdiction. It is therefore the order<sup>3</sup> of this board that the instant matter be remanded to the Montgomery County Board of Revision with instructions to dismiss the original complaint filed by CadleRock and retain the value originally assigned the subject property by the Montgomery County Auditor.

ohiosearchkeybta

---

<sup>3</sup> Having determined that the BOR did not have jurisdiction to consider the original complaint because it was filed by an improper complainant and, as such, shall be remanded to the BOR for purposes of dismissal, we need not make any further determinations concerning whether the individual who signed such complaint was authorized to do so.