

## OHIO BOARD OF TAX APPEALS

Springfield City School District Board of Education,	)	CASE NO. 2008-A-2527
	)	
Appellant,	)	(REAL PROPERTY TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Clark County Board of Revision, Clark County Auditor, and GGM&Y Enterprises,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant		- Rich & Gillis Law Group, LLC Angela Petrova 300 East Broad Street, Suite 300 Columbus, Ohio 43215
For the County Appellees		- Stephen A. Schumaker Clark County Prosecuting Attorney 50 East Columbia Street P.O. Box 1608 Springfield, Ohio 45502
For the Appellee Property Owner		- GGM&Y Enterprises 1331 Klobdenz Avenue Springfield, Ohio 45504
For the Appellee Complainant		- BSA of Ohio, Inc. 1331 Klobdenz Avenue Springfield, Ohio 45504

Entered June 9, 2009

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

This appeal is now considered by the Board of Tax Appeals following the receipt of a motion to remand with instructions to dismiss filed by the appellant board

of education. Appellant has appealed from a decision of the Clark County Board of Revision in which that board determined the taxable value of the subject property for tax year 2007, even though the BOE claims that it did not have jurisdiction to do so. No response to said motion was filed by the property owner or complainant.

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 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.”

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 28, 2008, regarding property owned by GGM&Y Enterprises. S.T., Ex. A. On the original complaint, GGM&Y Enterprises 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, “BSA of Ohio,

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

Inc.” is listed as the complainant, if not the owner. Line 3, for the complainant’s agent, is blank and Line 5, for the complainant’s relationship to property if not owner, indicates “renter.” Id. The complaint appears to be signed by Larry D. Zorn, who did not list a title, but who later appeared at the BOR hearing and indicated that he represents the lessee. S.T., Ex. G at 4. A counter-complaint was filed by the Springfield City School Board of Education. S.T., Ex. B.

On November 20, 2008, the BOR rendered its decision wherein it decreased the subject property’s value for tax year 2007. S.T., Ex. E. Unsatisfied with the valuation determination rendered by the BOR, the BOE appealed the BOR’s decision to this board.

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 Municipal School District Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, June 11, 2004), BTA Nos. 2003-M-1092, 1093, unreported.

More 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.*

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

*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 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.”

BSA did not respond to appellant’s motion to indicate that it owns property within Clark County, or otherwise properly qualifies as a complainant herein, pursuant to the provisions of R.C. 5715.19(A)(1). Therefore, based upon the foregoing and the failure of the record before us to demonstrate otherwise, it is the order<sup>3</sup> of this board that the instant matter be remanded to the Clark County Board of Revision with instructions to dismiss the original complaint filed by BSA of Ohio, Inc. and reinstate the value originally assigned the subject property by the Clark County Auditor.

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<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.