

OHIO BOARD OF TAX APPEALS

Sears, Roebuck and Co.,)
)
 Appellant,) (CASE NO. 2008-H-1636
) (REAL PROPERTY TAX)
)
 vs.) ORDER
)
 Franklin County Board of Revision,) (Requiring Appellant to Show Cause)
 the Franklin County Auditor, and the)
 Groveport Madison Local School)
 District Board of Education,)
)
 Appellees.)

APPEARANCES:

- For the Appellant - Siegel Siegel Johnson & Jennings Co., LPA
Jay Siegel
25700 Science Park Drive, Suite 210
Cleveland, Ohio 44122

- For the County Appellees - Ron O'Brien
Franklin County Prosecuting Attorney
William Stehle
Assistant Prosecuting Attorney
373 South High Street, 20th Fl
Columbus, Ohio 43215

- For the Appellee - Rich & Gillis Law Group, LLC
Board of Education Mark H. Gillis
300 East Broad Street, Suite 300
Columbus, Ohio 43215

Entered February 17, 2009

The above-captioned appeal is now considered, sua sponte, by the Board of Tax Appeals following a review of matters currently pending on the board's docket. It appears the notice of appeal filed with this board may not properly vest jurisdiction. If the Board of Tax Appeals concludes that jurisdiction has not vested, then the matter before this board must be dismissed.

A review of the statutory transcript (“S.T.”) filed with this board reveals that this matter originated from the March 2006 filing of a complaint by Lynx Associates, L.P. with the Franklin County Board of Revision (“BOR”) challenging the subject property’s 2005 value. The owner of the property is listed as “Lynx Associates, L.P.” on the complaint and the auditor’s property record card. S.T. at Exs. 1, 6. However, the notice of appeal filed with the Board of Tax Appeals references the complaint filed by Lynx, but identifies “Sears, Roebuck and Co.” as the appellant and owner.¹

Prior to any consideration of the merits of this matter, the board must assure that its own jurisdiction is proper. R.C. 5717.01 provides:

“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 an appeal may be taken by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the Revised Code to file complaints against valuations or assessments with the auditor.”

This board must question whether Sears, Roebuck and Co. has the jurisdictional authority to file a notice of appeal when the property is not held in its name.

The issue is one of standing. Under most circumstances, only complainants have standing to file a notice of appeal with the board. The exceptions to this rule are generally limited to certain officials, e.g., auditors, and the property

¹ We note that Lynx Associates, L.P. simultaneously filed its own separate notice of appeal based on the identical determination letter from the BOR attached to the notice of appeal filed by Sears. See our case number 2008-Z-1637.

owner, who is not required to participate before a board of revision. *Columbus Apartments Assoc. v. Bd. of Revision* (1981), 67 Ohio St.2d 85; *Bd. of Edn. v. Bd. of Revision* (1973), 34 Ohio St.2d 231, overruled on other grounds in *Renner v. Tuscarawas Cty. Bd. of Revision* (1991), 59 Ohio St. 3d 142; *Lindbloom v. Bd. of Tax Appeals* (1949), 151 Ohio St. 250. While the property owner appears to be Lynx Associates, L.P., the notice of appeal was not filed in the name of the property owner. Thus, the board must seek input from the parties as to the board's jurisdiction.

Therefore, it is the order of this board that the appellant show cause why jurisdiction is proper. Any party wishing to be heard upon the legal sufficiency of the notice of appeal to establish jurisdiction with this board shall file a written response within fourteen days of the issuance of this order.

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