

OHIO BOARD OF TAX APPEALS

Rajiv Deenadayalu,)	CASE NO. 2008-K-1688
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Lucas County Board of Revision, Lucas)	
County Auditor, and Board of Education)	
for Maumee City Schools,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant	- Rajiv Deenadayalu, pro se 3303 Woodhill Circle Superior Township, Michigan 48198
For the County Appellees	- Julia R. Bates Lucas County Prosecuting Attorney Carol Bruggeman Assistant Prosecuting Attorney One Government Center, Suite 500 Toledo, Ohio 43604
For the Appellee Board of Education	- Spengler Nathanson Michael Bragg 608 Madison Avenue, Suite 1000 Toledo, Ohio 43604-1169

Entered April 28, 2009

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

This matter is now considered by the Board of Tax Appeals upon the existing record which is comprised of appellant’s notice of appeal, the transcript certified to this board by the Lucas County Board of Revision (“BOR”), and a motion filed on behalf of the appellee Board of Education for Maumee City Schools (“BOE”) in which it requests this board remand this matter to the BOR with instructions to dismiss the underlying complaint. Neither appellant nor the county appellees has timely responded to the BOE’s motion.

Through its motion, the BOE asserts that the BOR was without jurisdiction to consider the complaint initiating these proceedings because the correct owner was not identified on this document. While the complaint identifies the owner of the subject property, i.e., parcel number 21-42524, as “Rajiv Deenadayalu & Geetika Gupta,” this representation is contradicted by the certification provided by the BOR as well as the property record card which identify the owner as “NS Management Ohio LLC.”¹ Given the existing record and the uncontested assertions set forth within the BOE’s motion, said motion would ordinarily be granted.² See, generally, *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2000), 87 Ohio St.3d 363. See, also, *Trotwood-Madison City School Dist. v. Montgomery Cty. Bd. of Revision* (June 30, 1997), BTA No. 1995-S-1282, unreported.

However, a more fundamental jurisdictional issue is present in this appeal. R.C. 5717.01 sets forth certain prerequisites essential in order to vest this board with authority to consider an appeal, providing in pertinent part:

“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 5717.20 of the Revised Code. *** Such appeal shall be taken by the filing of a notice of appeal *** with the board of tax appeals and with the county board of revision.”

When a statute confers the right of appeal, adherence to the terms and conditions set forth in the statute is essential to the enjoyment of the right conferred. *Am.*

¹ As additional support for its motion, the BOE provided information apparently comprising the subject property record in its entirety which indicates that the property was transferred by Rajiv Deenadayalu & Geetika Gupta to NS Management Ohio LLC on January 23, 2007, almost fourteen months prior to the date on which the above-referenced complaint was filed.

² Because the BOR effected no change to the auditor’s original assessed values, the practical result of the dismissal of the appeal is the same as that which would have been achieved by the granting of the BOE’s motion.

Restaurant and Lunch Co. v. Glander (1946), 147 Ohio St. 147; *Zephyr Room Inc. v. Bowers* (1955), 164 Ohio St. 287; *Fineberg v. Kosydar* (1975), 44 Ohio St.2d 1; *Clippard Instrument v. Lindley* (1977), 50 Ohio St.2d 121. Consistent with the reference included in appellant's notice of appeal, the BOR certified that its decision was mailed to appellant on August 20, 2008. While appellant's notice of appeal was filed with this board less than thirty days after said mailing, i.e., September 16, 2008, the transcript discloses that appellant's appeal was not filed with the BOR until September 23, 2008, which is beyond the period set forth in R.C. 5717.01.

Based upon the foregoing, we find appellant failed to invoke this board's jurisdiction by filing his appeal within the time frame expressly prescribed by R.C. 5717.01. See, also, *Hope v. Highland Cty. Bd. of Revision* (1990), 56 Ohio St.3d 68. Accordingly, it is the order of this board that this appeal must be, and hereby is, dismissed.

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