

OHIO BOARD OF TAX APPEALS

Sidney Lefton,)
)
 Appellant,) (CASE NO. 2008-K-538
) (REAL PROPERTY TAX)
)
 vs.) DECISION AND ORDER
)
 Franklin County Board of Revision and)
 Franklin County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - David E. Lefton
Attorney at Law
7762 Pembroke Pass
New Albany, Ohio 43054

For the County Appellees - Ron O'Brien
Franklin County Prosecuting Attorney
Paul M. Stickel
Assistant Prosecuting Attorney
373 South High Street, 20th Floor
Columbus, Ohio 43215

Entered March 10, 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 Franklin County Board of Revision ("BOR"), and a motion to dismiss filed on behalf of the county appellees to which appellant has not responded. The appellees assert that this board is without jurisdiction to consider the present matter as the

notice of appeal was not filed with the BOR as required by statute.¹ Attached to the motion is an affidavit of Victoria K. Anthony wherein she avers:

“1. I am the duly appointed and acting Clerk of the Franklin County Board of Revision;

“2. In my official capacity, I have made a diligent search of the relevant records of the Franklin County Board of Revision and the County Auditor, of which I am the official custodian;

“3. As a result of such search, I have found no reference to or evidence of the filing of a notice of appeal in this case with either the Franklin County Auditor or the Franklin County Board of Revision, and I have found no copy of such notice of appeal in any of the records of the Auditor or the Board of Revision.”

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. 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. Although application of the preceding

¹ Although a certificate of service attached to appellant’s notice of appeal suggests that the notice of appeal was sent by certified mail to the BOR on April 24, 2008, appellant has not opposed the county appellees’

statutory requirements at times appears harsh, as we noted in *Martinovich v. Montgomery Cty. Bd. of Revision* (Sept. 24, 1985), BTA No. 1982-B-589, unreported:

“This Board is mindful of the fact that the appellant elected to proceed on his own behalf as he is surely entitled to do. Nevertheless, whether a party wishing to appeal to this Board acts for himself or through an authorized representative, the action taken must comply with the jurisdictional requirements prescribed by the Ohio General Assembly in order to perfect an appeal in conformity with statutory terms and conditions.” *Id.* at 7.

Based upon the foregoing, we find appellant failed to invoke this board’s jurisdiction by filing his appeal in the manner and 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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motion or the attached affidavit attesting otherwise.