

OHIO BOARD OF TAX APPEALS

Clinton E. Wagner,)	
)	CASE NO. 2008-N-1398
Appellant,)	
)	(REAL PROPERTY TAX)
vs.)	
)	ORDER
Union County Board of Revision)	
and Union County Auditor,)	(Requiring Appellant to Show
)	Cause)
Appellees.)	

APPEARANCES:

For the Appellant -	Clinton E. Wagner, pro se 19467 Bear Swamp Rd. Marysville, Ohio 43040
For the County Appellees -	David W. Phillips Union County Prosecuting Attorney Rick Rodger Assistant Prosecuting Attorney 221 West 5 th Street, Suite 333 Marysville, Ohio 43040

Entered February 3, 2009

A review of the record in this matter indicates that appellant, Clinton E. Wagner, filed a notice of appeal with the Board of Tax Appeals on August 19, 2008. This appeal was filed from a decision of the Union County Board of Revision (“BOR”), in which the BOR determined the taxable value of parcel no. 03-0008004.036.

Specifically, this board must determine whether it has jurisdiction to consider the instant matter. Based upon the statutory transcript (“S.T.”) certified to this board by the Union County Auditor, it appears that the BOR mailed its decision to

appellant via certified mail on July 9, 2008. S.T., Ex. 7 and DTE Form 3, Line 4. Appellant filed his notice of appeal with this board on August 19, 2008, apparently forty-one days after the date of mailing by the BOR. While appellant states in his notice of appeal that he received the BOR's decision on July 22, 2008, we note that the date of mailing by the BOR, not the date of receipt, prompts the activation of the thirty-day time period within which an appeal may be taken from a county board of revision. R.C. 5717.01 and 5715.20.

R.C. 5717.01 provides the jurisdictional requirements to appeal from a decision of a county board of revision to this board. It reads, 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 5715.20 of the Revised Code. *** Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, or authorized delivery service, with the board of tax appeals and with the county board of revision. ***” (Emphasis added.)

The requirements of R.C. 5717.01 are specific and mandatory in nature. When a statute confers the right of appeal, adherence to the terms and conditions set forth therein is essential to the enjoyment of the right conferred. *Am. Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147. The statutory requirements set forth in R.C. 5717.01 for filing a notice of appeal from a decision of a county board of revision are mandatory and jurisdictional. *Bd. of Edn. of Mentor v. Bd. of Revision* (1980), 61 Ohio St.2d 332.

As strict compliance with R.C. 5717.01 is essential to vest jurisdiction with this board, it is therefore the order of this board that appellant show cause why this board should not dismiss the instant appeal for the apparent failure to file such notice of appeal within thirty days of the BOR mailing its decision.

Any party wishing to be heard upon the legal sufficiency of the filing to establish jurisdiction with this board shall file a written response within fourteen (14) days of the issuance of this order.

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