

OHIO BOARD OF TAX APPEALS

Sandy Lane, LLC,)	
)	CASE NO. 2008-N-2246
Appellant,)	
)	(REAL PROPERTY TAX)
vs.)	
)	ORDER
Franklin County Board of Revision,)	
Franklin County Auditor, and the)	(Denying Motion to Compel)
Board of Education of the Columbus)	
City Schools,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant -	Lawrence L. Blacker Managing Member 77 Franklin Street Boston, Massachusetts 02110
For the County Appellees -	Ron O'Brien Franklin County Prosecuting Attorney Paul M. Stickel Assistant Prosecuting Attorney 373 South High Street Columbus, Ohio 43215
For the Bd. of Edn. ¹ -	Rich & Gillis Law Group, LLC Mark H. Gillis 300 East Broad Street, Suite 300 Columbus, Ohio 43215

Entered March 10, 2009

The Board of Tax Appeals considers this matter pursuant to a motion filed by appellant, Sandy Lane, LLC, on February 19, 2009. Appellant asks this board to strike the answers of the Board of Education of the Columbus City Schools

(“BOE”) to the interrogatories included in its motion, and to compel further answers to such interrogatories. We construe appellant’s motion to strike and to compel further answers as a motion to compel discovery. The appellees have not responded to the motion. Ohio Adm. Code 5717-1-12(B).

In its motion, appellant states that it served the BOE with interrogatories on December 6, 2008, and received a response on January 7, 2009. In response to each of the interrogatories listed in the motion, the BOE objected and stated that “[t]his interrogatory is vague, overbroad and seeks information that is irrelevant to the sole issue in this appeal which is the market value of the [s]ubject [p]roperty.” Appellant argues that the basis for its appeal is “that the parcel in question is overvalued and in conjunction therewith, or in the alternative, has been discriminatorily assessed.”

Appellant’s interrogatories generally relate to the BOE’s filing of complaints with the Franklin County Board of Revision (“BOR”) for 2005 as the result of a sale occurring that year, the total number of parcels sold in 2005, the number of parcels that were not sold in 2005 but which the BOE sought an increase for by filing a complaint with the BOR, and the basis for such complaints.

Issues similar to those raised by appellant have been addressed by this board on numerous prior occasions. See, *J.C. Penney Properties, Inc. v. Franklin Cty. Bd. of Revision* (Interim Order, Jan. 19, 1982), BTA Nos. 1981-D-509, et seq.,

¹ The record reflects that the board of education has not filed an entry of appearance in this matter. We remind the board education to enter its appearance pursuant to this board’s Rules of Practice and Procedure, specifically, Ohio Adm. Code 5717-1-03.

unreported; *Metro Office Towers v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Oct. 30, 1987), BTA No. 1984-B-1112, et al., unreported; *Dublin Techmart L.P. v. Franklin Cty. Bd. of Revision* (Interim Order, June 23, 1989), BTA No. 1988-F-847, unreported; *Canton City School Dist. Bd. of Edn. v. Stark Cty. Bd. of Revision* (Interim Order, Feb. 11, 2000), BTA Nos. 1997-K-1664, et seq., unreported; *S. Euclid-Lyndhurst City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Sept. 1, 2000), BTA Nos. 2000-K-385, et seq., unreported; *S. Euclid-Lyndhurst City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Mar. 15, 2002), BTA Nos. 2001-A-439, et seq., unreported (*S. Euclid-Lyndhurst I*); *Bd. of Edn. of the Columbus City School Dist. v. Franklin Cty. Bd. of Revision* (May 23, 2003) BTA No. 2002-M-2018, unreported; *S. Euclid-Lyndhurst City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, May 2, 2003), BTA No. 2002-A-2043, unreported; *Duncan Oil Co. v. Hamilton Cty. Bd. of Revision* (Mar. 25, 2005), BTA No. 2003-M-828, unreported; and *Meyer v. Cuyahoga Cty. Bd. of Revision* (1979), 58 Ohio St.2d 328.

In *S. Euclid-Lyndhurst I*, supra, citing *J.C. Penney Properties*, supra, this board rejected a property owner's discovery requests similar to those of appellant's. The board held the following:

“It is readily apparent from the nature of these questions that the movant is attempting to determine the ‘motive’ of the Columbus Board of Education for selecting particular parcels of real property as a subject for a review as to the valuation thereof by the county board of revision.

“ ***

“The Columbus Board of Education was authorized by R.C. 5715.19 to file the complaint with reference to the subject property owner by the J.C. Penney Properties, Inc. and has done so in conformity with law. While such statutory provision does not expressly require any specific reason for filing such a complaint, it is apparent that the determination of the value of the subject property affects the amount of real property tax assessed thereon, a portion of which will ultimately benefit the Columbus Board of Education. Its motive for selecting particular properties as opposed to other properties, is of no *legal* significance in the instant appeal.” Id. at 13-14. (Emphasis sic.)

Appellant’s motion specifically states it is seeking the basis of the BOE’s decision to file complaints related to any properties within its jurisdiction for 2005. However, discovery for the instant appeal should pertain only to the subject property, any related properties, and any related tax years. We note that R.C. 5715.19 states that “the board of education of any school district with any territory in the county *** may file such a complaint regarding any such determination affecting any real property in the county ***.” In *S. Euclid-Lyndhurst I*, supra, we stated:

“Unlike complainants who seek a decrease in value, the BOE, which sought an increase in the value of the subject property, is not required to allege facts in its complaint upon which the increase is requested. Compare 5715.13. See *Cardinal Federal S. & L. Assn. v. Bd. of Revision* (1975), 44 Ohio St.2d 13, 17 (‘R.C. 5715.13 only affects the power of a county board of revision to decrease valuations. Inasmuch as this case involves an increase in valuation, appellees were under no mandate to comply with R.C. 5715.13 and its concomitant requirement to ‘show the facts’ upon which their claims were based.’)”

Therefore, based upon the above, the motion to compel discovery is denied. This matter will proceed in the ordinary course before the board pursuant to the board's Rules of Practice and Procedure.

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