

OHIO BOARD OF TAX APPEALS

James F. and Robert L. Wilkie,)
an Ohio General Partnership,) CASE NO. 2008-T-2016
)
Appellant,) (REAL PROPERTY TAX)
)
vs.) ORDER
)
Lucas County Board of Revision,) (Requiring Appellant to Show Cause &
Lucas County Auditor, and Board of) Cancelling Mediation Conference)
Education for the Toledo Public Schools,)
)
Appellees.)

APPEARANCES:

For the Appellant - Robert Wilkie
45 Hillwyck Drive
Toledo, Ohio 43615

For the Appellee Spengler Nathanson P.L.L.
Bd. of Edn. - Michael W. Bragg
608 Madison Avenue, Suite 1000
Toledo, Ohio 43604-1169

For the County Julia R. Bates
Appellees - Lucas County Prosecuting Attorney
Carol Bruggeman
Assistant Prosecuting Attorney
One Government Center, Suite 500
Toledo, Ohio 43604

Entered April 21, 2009

R.C. 5717.01 sets forth the requirements for bringing an appeal before
the Board of Tax Appeals as follows:

“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. If notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing.”

The requirements of R.C. 5717.01 must be strictly complied with before the subject matter jurisdiction of the Board of Tax Appeals may be invoked. *Austin Co. v. Cuyahoga Cty. Bd. of Revision* (1989), 46 Ohio St.3d 192; *Am. Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147. One of those requirements is that the notice of appeal must be filed with both the Board of Tax Appeals and the board of revision within thirty days after the certified mailing of the board of revision's decision. Failing to comply with the requirement will lead to the dismissal of the appeal. *Austin Co.*, supra; *Akron Standard Div. v. Lindley* (1984), 11 Ohio St.3d 10.

The transcript of the board of revision's proceedings, certified to the BTA by the Lucas County Auditor, specifies that notice of the BOR's decision was mailed by certified mail to the complainants on October 31, 2008. See R.C. 5715.20(A). However, the auditor has also certified that no copy of the notice of appeal taken from that decision has been filed with the BOR.

Upon review of the foregoing, it appears that the appellant failed to file the subject notice of appeal with the board of revision within the thirty-day deadline established by statute. Accordingly, the Board of Tax Appeals orders that appellant

show cause as to why the appeal should not be dismissed. Any party wishing to be heard upon the legal sufficiency of the notice of appeal to establish jurisdiction with the BTA shall file a written response within fourteen (14) days of the issuance of this order.

The mediation conference scheduled for April 24, 2009 is hereby cancelled to provide the board an opportunity to consider the jurisdictional issue now before it.

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