

OHIO BOARD OF TAX APPEALS

Nickel & Company, LLC,)
)
 Appellant,) (CASE NO. 2008-T-2070
) (REAL PROPERTY TAX)
 vs.)
) ORDER
)
 Montgomery County Board of Revision,) (Requiring Appellant to Show Cause)
 the Montgomery County Auditor, and)
 Centerville City School District)
 Board of Education,)
)
 Appellees.)

APPEARANCES:

For the Appellant-	James R. Duvall, Agent Representative Nickel & Company, LLC P.O. Box 35547 Tulsa, Oklahoma 74153
For the County Appellees -	Mathias H. Heck, Jr. Montgomery County Prosecuting Attorney Laura G. Mariani Assistant Prosecuting Attorney 301 West Third St. P.O. Box 972 Dayton, OH 45422
For the Appellee Bd. of Edn. -	McGown, Markling & Whalen Co., L.P.A. Elizabeth Grooms Taylor 1894 N. Cleveland-Massillon Road Akron, Ohio 44333

Entered March 17, 2009

The above-captioned appeal is now considered, sua sponte, by the Board of Tax Appeals following a review of matters currently pending on the board's docket. It appears the notice of appeal filed with this board may not properly vest jurisdiction. If the Board of Tax Appeals concludes that jurisdiction has not vested, then the matter before this board must be dismissed.

A review of the statutory transcript filed with this board reveals that this matter originated from the filing of a complaint with the Montgomery County Board of Revision (“BOR”) by the Centerville City School District Board of Education (“BOE”). Line 1 of the complaint identified the owner of the property under consideration as “Medford Hah LLC.” The complaint sought an increase in value for three parcels of land located in Centerville, to comport with a sale of the same property taking place on June 22, 2007.

The property owner did not file a counter-complaint, nor was the property owner present at the BOR’s hearing. S.T., Hearing Record. Within the time allotted for filing a notice of appeal after receiving a valuation increase from a county board of revision, a notice of appeal was filed with this board. That notice of appeal identified the appellant as “Nickel & Company, LLC,” and identified the property owner as “Medford Hah, LLC.” The notice of appeal was signed by James R. Duvall, who identified himself as “Agent Representative.”

Prior to any consideration of the merits of this matter, the board must assure that its own jurisdiction is property. R.C. 5717.01 provides:

“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 an appeal may be taken by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the Revised Code to file complaints against valuations or assessments with the auditor.”

In the present matter, “Nickel & Company, LLC” filed the notice of appeal. This board must question whether the filing sufficiently identified the owner for purposes of jurisdiction.

The issue is one of standing. Only complainants have standing to file a notice of appeal with the board. *Bd. of Edn. v. Bd. of Revision* (1973), 34 Ohio St.2d 231, overruled on other grounds in *Renner v. Tuscarawas Cty. Bd. of Revision* (1991), 59 Ohio St. 3d 142; *Lindbloom v. Bd. of Tax Appeals* (1949), 151 Ohio St. 250.

An exception to this general rule is the property owner, who is not required to participate before a board of revision. *Columbus Apartments Assoc. v. Bd. of Revision* (1981), 67 Ohio St.2d 85. While the property owner was disclosed on the face of the notice of appeal, the notice of appeal was not filed in the name of the property owner. Thus, the board must seek input from the parties, as to the board’s jurisdiction.

Therefore, it is the order of this board that the appellant show cause why jurisdiction is proper. Any party wishing to be heard upon the legal sufficiency of the notice of appeal to establish jurisdiction with this board shall file a written response within twenty-one (21) days of the issuance of this order.

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