

OHIO BOARD OF TAX APPEALS

Ronald Levi,)
)
 Appellant,)
)
 vs.)
)
 Lucas County Board of Revision and the) (Granting Appellant’s Motion to
 Lucas County Auditor,) Continue Merit Hearing)
)
 Appellees.)

APPEARANCES:

- For the Appellant - Ronald Levi, pro se
3220 Talmadge Road
Toledo, OH 43606

- For the County Appellees - Julia R. Bates
Lucas County Prosecutor
Carol R. Bruggerman
Assistant Prosecuting Attorney
One Government Center
Suite 500
Toledo, OH 43624

Entered March 10, 2009

This matter is currently before the Board of Tax Appeals as a result of a motion by the appellant to continue the merit hearing scheduled for the instant appeal. Appellant argues that a continuance is necessary to collect more evidence; to await the resolution of a complaint filed in January 2009 before the Public Utilities Commission of Ohio; to gather more information from a publisher of a constructions costs manual; and to obtain more information from the Lucas County Auditor’s “property value review.”

The instant appeal was filed on August 11, 2008. None of the grounds given by the appellant include any estimate of the amount of time needed. The time to involve this board in any discovery disputes has long since passed.¹

In *Coats v. Limbach*, (1990), 47 Ohio St.3d 114, the Supreme Court held that the standard to be utilized by this board for granting continuances was the same standard utilized by a trial court, the sound discretion of the tribunal. In *State v. Unger* (1981), 67 Ohio St.2d 65, 67, the court held that the objective factors that may be considered by the trial court in assessing the propriety of a motion for continuance include “the length of the delay requested; whether other *** continuances have been requested and received; the inconvenience to litigants, witnesses, opposing counsel and the court; whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived; whether the [moving party] contributed to the circumstance which gives rise to the request for a continuance; and other relevant factors, depending on the unique facts of each case.” Id. at 67-68.

This board acknowledges the decision of *Strongsville Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1990), 53 Ohio St.3d 254, in which the court held that this board’s denial of a continuance was an abuse of discretion when an appraiser was unavailable. In that appeal the court set forth the following criteria to guide this board in granting requests for continuances:

“[T]he witness’s absence must be unavoidable, the witness’s testimony must be critical, the request must be

¹ This board previously granted appellant’s request to extend the discovery period until December 31, 2008. See *Levi v. Lucas Cty. Bd. of Revision* (Interim Order Nov. 18, 2008), BTA No. 2008-V-1339, unreported.

made in good faith, and the witness's attendance at a future hearing must be probable.”

There is an absence of any substantive facts establishing good cause that might justify a continuance in the present matter. See, also, *Bivins v. Ohio State Bd. of Emergency Med. Serv.*, Erie App. No. E-05-010, 2005-Ohio-5999 (holding that the denial of a last-minute continuance did not amount to an abuse of discretion, when the movant had ample time to prepare for the administrative hearing); and *Carter v. Akron Housing Appeals Bd.*, Summit App. No. 22767, 2006-Ohio-392 (holding that the denial of a continuance where movant failed to demonstrate good cause was proper).

Nevertheless, this board will grant a minimal continuance to allow appellant more time to prepare. The merit hearing previously scheduled for March 23, 2009 is hereby continued and the parties will receive separate correspondence from this board's assignment commissioner as to the date and time of the merit hearing.

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