

**OHIO BOARD OF TAX APPEALS**

Board of Education for Toledo )  
Public Schools, ) CASE NO. 2008-V-1592  
)  
Appellant, ) (REAL PROPERTY TAX)  
)  
vs. ) DECISION AND ORDER  
)  
Lucas County Board of Revision, )  
the Lucas County Auditor, )  
Khalid Hamdallah, and Lucie Loach, )  
)  
Appellees. )

**APPEARANCES:**

For the Appellant- BOE	Spengler Nathanson Michael W. Bragg Four Seagate Suite 400 Toledo, OH 43604-2622
For the County - Appellees-	Julia R. Bates Lucas County Prosecuting Attorney Carol Bruggeman Assistant Prosecuting Attorney 700 Adams Street Suite 250 Toledo, OH 43604-5659
For the Appellee - Complainant Khalid Hamdallah	Law Offices of Kenneth W. Wenninger, LLC Kenneth W. Wenninger 5658 North Main Street Suite 101 Sylvania, OH 43560
For the Appellee - Property Owner	(no appearance) Lucie Loach 10995 Bluffside Drive Suite 2325 Studio City, CA 91604

Entered April 14, 2009

Ms. Margulies, Mr. Johrendt, and Mr. Dunlap concur.

This appeal is now being considered following the filing of a motion on behalf of the Board of Education for Toledo Public Schools (“BOE”). The BOE asks this board to remand the instant appeal to the Lucas County Board of Revision (“BOR”) with instructions to dismiss the underlying complaints. Through his counsel, appellee Khalid Hamdallah has responded to said motion.

The statutory transcript (“S.T.”) certified to this board by the Lucas County Auditor reveals that two complaints were filed with the Lucas County Board of Revision (“BOR”) on March 13, 2008 for the 2007 tax year. S.T. at unmarked exhibit. “Lucie Loach” is listed on Line 1 of the complaints as the owner of the property. Id. Line 2 of the complaints lists “Khalid Hamdallah” as the “complainant if not the owner.” Id. Line 3 of the complaints lists counsel “Kenneth W. Wenninger” as the “complainant’s agent.” Line 5 of the complaints lists “attorney” as the “complainant’s relationship to property if not owner.” Id. Attached to the complaints is a copy of a land installment contract, recorded on December 4, 2007, which identifies the seller as Lucie Loach and the land contract vendee (buyer) as Khalid Hamdallah. Id. The attached land installment contract appears to identify the addresses of the six parcels listed on the face of the complaints. The property record cards included in the statutory transcript reflect “Lucie Loach” as the owner of each of the six parcels. S.T. at unmarked property record cards.

Although no representative of the owner or the complainant appeared at hearing before the BOR, the BOR decreased the true value of the subject property

from the auditor's appraised value of \$280,300 to \$255,000. S.T. at unmarked decision letter.<sup>1</sup>

R.C. 5715.19(A)(1)(e) provides, in pertinent part:

“Any person owning taxable real property in the county or in a taxing district with territory in the county \*\*\* may file such a complaint regarding any such determination affecting any real property in the county \*\*\*.”

Additionally, where, as here, the complaint before the BOR is a decrease complaint,

R.C. 5715.13 provides:

“The county board of revision shall not decrease any valuation unless a party affected thereby or who is authorized to file a complaint under section 5715.19 of the Revised Code makes and files with the board a written application therefor, verified by oath, showing the facts upon which it is claimed such decrease should be made.”

In *Overstreet v. Bd. of Revision of Hamilton Cty.* (May 31, 1996), BTA No. 1995-N-1265, unreported, this board considered a land contract and determined that the purchaser of a property under a land contract, where title had not yet been conveyed by deed, is an equitable owner of the property. Having an equitable ownership interest in property, however, is not equivalent to having a legal ownership interest in property. See, also, *Heidenreich v. Montgomery Cty. Bd. of Revision* (Oct. 21, 2008), BTA No. 2008-V-1164, unreported; *Strobel v. Montgomery Cty. Bd. of Revision* (Oct. 19, 2007), BTA No. 2006-Z-1322, unreported (a vendee of a land contract lacks standing to file a complaint before a board of revision).

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<sup>1</sup> It appears that the BOR reduced the value to be consistent with the price to be paid over a 36-month period of time as contained in the land installment contract attached to the complaints. Further, said decision letter of the BOR fails to allocate the new value of \$255,000 over the six subject parcels.

While the holder of legal title of real property has standing to file a complaint under R.C. 5715.19, the owner of an equitable interest in real property does not. See *Victoria Plaza Ltd. Liab. Co. v. Cuyahoga Cty. Bd. of Revision* (1999), 86 Ohio St.3d 181, 183 (“Thus, a person owning property has legal title to it; a person having the beneficial interest in property has possession of all characteristics of ownership other than legal title. Since R.C. 5715.19 does not contain language allowing someone other than the person holding legal title to file a complaint, we conclude that the owner of an equitable interest in real property does not have standing to file a complaint.”); *Public Square Tower One v. Cuyahoga Cty. Bd. of Revision* (1986), 34 Ohio App.3d 49, syllabus (“As used in R.C. 5715.19, the term ‘owner’ refers to the owner on the date when a valuation complaint was filed.”). See, also, *Performing Arts School of Metro. Toledo, Inc. v. Wilkins*, 104 Ohio St.3d 284, 2004-Ohio-6389 (a lessee lacks standing to file an application seeking to exempt real property and the fact that the owner joins in the application after the filing deadline has passed does not cure the jurisdictional defect).

In Mr. Hamdallah’s response to the motion, counsel alleges that Mr. Hamdallah is a “party affected” under R.C. 5715.13; however, he does not allege that Mr. Hamdallah owns taxable real property within the county pursuant to R.C. 5715.19(A)(1)(e). Based on the record before this board, we now make the following findings. We find that Khalid Hamdallah is the owner of an equitable interest in the subject parcels pursuant to a land contract. We further find that Lucie Loach is the

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legal titleholder to the subject property. S.T. at unmarked property record cards. We are constrained to find that Khalid Hamdallah is not the owner of the subject property and does not own taxable real property in the county; accordingly, he does not have standing to bring a complaint against the subject property pursuant to R.C. 5715.19(A)(1)(e).

It is the order of this board, based on the record before us, that this appeal be remanded to the BOR with orders to dismiss the complaints before it and reinstate the auditor's values. Without valid complaints, the BOR lacked jurisdiction to amend value.

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