

OHIO BOARD OF TAX APPEALS

Allen Segedy,)
) CASE NOS. 2008-V-1672,
) 2008-V-1673, 2008-V-1674
 Appellant,)
) (REAL PROPERTY TAX)
 vs.)
) DECISION AND ORDER
 Geauga County Board of Revision and the)
 Geauga County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Allen E. Segedy, pro se
7707 Country Lane
Chagrin Falls, OH 44023

For the County Appellees - David P. Joyce
Gauga County Prosecuting Attorney
Bridey Matheney
Assistant Prosecuting Attorney
231 Main Street, Suite 3A
Chardon, OH 44024

Entered March 10, 2009

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

This appeal is now being considered after motions¹ filed by counsel for the county appellees, requesting that this board dismiss the instant appeals. Appellant Allen Segedy has responded to the motions.

The statutory transcript certified to this board by the auditor indicates that appellant failed to serve a copy of the notices of appeal upon the Geauga County

¹ Counsel for the BOR has filed separate motions in each of the above-captioned appeals. In the interest of economy, this board will consider the motions together.

Board of Revision (“BOR”) within thirty (30) days after the mailing of the BOR’s decision pursuant to R.C. 5717.01.

R.C. 5717.01 provides, in relevant part:

“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 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.*” (Emphasis added.)

The Ohio Supreme Court has consistently held that the requirements of R.C. 5717.01 are mandatory, and that compliance therewith is essential to vest jurisdiction in the Board of Tax Appeals. *Hope v. Highland Cty. Bd. of Revision* (1990), 56 Ohio St.3d 68. Failure to comply with the appellate statute is fatal to the appeal.² *Austin Co. v. Cuyahoga Cty. Bd. of Revision* (1989), 46 Ohio St.3d 192. See, also, *Mentor Exempted Village School Dist. Bd. of Edn. v. Lake Cty. Bd. of Revision* (1980), 61 Ohio St.2d 332; *Cleveland City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1973), 34 Ohio St.2d 231.

In his response, appellant alleges that he sent copies of the notices of appeal to the BOR via regular mail. Appellant further claims that upon finding out that the BOR had not received copies of the notices of appeal, he hand delivered copies to the BOR on an undisclosed date. Appellant’s Brief at 1. Beyond the

² Once the thirty-day period for filing a notice of appeal has expired and the decision of the BOR has become final, the Board of Tax Appeals is without authority to hear the appeal. See *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision*, 87 Ohio St.3d 363, 2000-Ohio-452; *Lutz v. Evatt* (1945), 144 Ohio St. 635.

allegations contained in his brief, appellant has not provided any evidence to suggest that the BOR received the copies of the notices of appeal within the thirty-day time frame required by statute. Even if we were to construe the facts as stated above in a light most favorable to the appellant, a different outcome would not result.

The Board of Tax Appeals has no express or implied equity jurisdiction; therefore, we must apply the pertinent law to the facts before us. *Columbus Southern Lumber Co. v. Peck* (1953), 159 Ohio St. 564. As a creature of statute, we have only the jurisdiction, power, and duties expressly given by the General Assembly. *Steward v. Evatt* (1944), 143 Ohio St. 547.

Based on the record before us, we necessarily conclude that the notices of appeal were not timely served on the BOR and that we lack the requisite jurisdiction over the instant appeals. It is the decision and order of the Board of Tax Appeals that the instant matters be dismissed.

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