

OHIO BOARD OF TAX APPEALS

James Snyder, Jr. and)
Bonnie Snyder,)
)
Appellants,)
)
vs.)
)
Belmont County Board of Revision and the)
Belmont County Auditor,)
)
Appellees.)

CASE NO. 2008-V-1763
(REAL PROPERTY TAX)
DECISION AND ORDER

APPEARANCES:

For the Appellants - James Snyder, Jr., pro se
Bonnie Snyder, pro se
72095 Briarwood Drive
Piedmont, OH 43983

For the County Appellees - Christopher Berhalter
Belmont County Prosecuting Attorney
147A West Main Street
St. Clairsville, OH 43950

Entered January 27, 2009

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

This appeal is now being considered upon an order requiring appellants James Snyder Jr. and Bonnie Snyder to show cause as to why the instant appeal should not be dismissed. The appellants have responded in writing to this board’s order.

This board’s show cause order was based upon a review of the instant appeal. The notice of appeal filed on behalf of the appellants was received by this board (via certified mail) on September 26, 2008. Attached to said appeal is a copy of a decision of the Belmont County Board of Revision (“BOR”) concerning property identified by the appellants. The decision letter is not dated; however, the BOR has

certified that the decision letter was mailed on August 26, 2008. See DTE Form 3. Based upon this board's review of the notice of appeal, it appears that the notice of appeal was filed beyond the thirty-day time frame provided by 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.¹ *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.

Appellants argue that the thirty-day time frame does not begin to run until their receipt of the BOR's decision letter and that a representative of the BOR advised them that they had until September 26, 2008 to file the appeal.

¹ 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.

Pursuant to R.C. 5717.01, appellants were required to file the notice of appeal within thirty days of the issuance of the decision. The last day appellants could have timely filed the notice of appeal fell on September 25, 2008.

Regarding any erroneous advice the appellants may have received from county employees, estoppel does not apply against the state, even where an employee makes a misleading or confusing statement. See *Reynolds Avenue Transfer Station v. Franklin Cty. Bd. of Revision* (Nov. 30, 2001), BTA No. 2001-S-217, unreported. Additionally, the fact that a representative of the BOR's office may have given incorrect information does not assist the appellant in vesting jurisdiction with this board. "The actions of an employee of the BOR, no matter how well-meaning, confusing or misleading, do not serve to excuse the untimely filing." *Psathas v. Cuyahoga Cty. Bd. of Revision* (Jan. 12, 2001), BTA No. 2000-M-1471, unreported. In that case, the misleading information given by an employee of a board of revision was that a new hearing would be scheduled after a decision letter was issued. Thus, the taxpayer delayed filing a notice of appeal until after 30 days had passed. In the present matter, appellants claim that a representative of the BOR didn't give accurate information. The untimely filing by the appellants is not curable by suggesting that the BOR failed to give accurate information. See, also, *Salama v. Cuyahoga Cty. Bd. of Revision* (Nov. 9, 2007), BTA No. 2007-V-450.

Given the uncontroverted record before us, we necessarily conclude that the notice of appeal was not filed in a timely manner. It is the decision and order of the Board of Tax Appeals that the instant matter be dismissed. ohiosearchkeybta