

OHIO BOARD OF TAX APPEALS

Board of Education for Sylvania City Schools,)	CASE NO. 2008-Z-1725
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Lucas County Board of Revision, Lucas County Auditor, and Rose Development LLC,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant
Bd. of Edn.

- Spengler Nathanson PLL
Michael W. Bragg
Four SeaGate, Suite 400
Toledo, Ohio 43604

For the County
Appellees

- Julia R. Bates
Lucas County Prosecuting Attorney
Carol Bruggeman
Assistant Prosecuting Attorney
One Government Center, Suite 500
Toledo, Ohio 43604

For the Appellee
Property Owner

- Rose Development LLC
4635 West Alexis Road
Toledo, Ohio 43623

Copy to

- Ronald W. Rose, Jr. & Betty Rose
4635 West Alexis Road
Toledo, Ohio 43623

Entered May 5, 2009

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

The Board of Tax Appeals is considering the above-referenced appeal following the issuance of an order on April 7, 2009 requiring the appellee property owner to show cause as to why this board should not remand the appeal to the Lucas County Board of Revision (“BOR”) with instructions to dismiss the underlying complaint filed by the appellee property owner for lack of jurisdiction. On April 20, 2009, the appellee property owner filed a response to this board’s show cause order.

A review of the record in this appeal reveals that the property owner filed a complaint with the BOR on March 30, 2008 requesting a decrease in the valuation of parcel number “24-01045” with an address of “4635 W. Alexis Rd., Toledo, Ohio 43623” for tax year 2007. S.T. at 2. In said complaint, “Rose Development LLC” was listed on Line 1 as the owner of the property. Id. In contrast, the property record card included in the statutory transcript certified to this board by the Lucas County Auditor reflects “Rose Ronald W Jr & Betty” as the owners of parcel number 24-01045. S.T. at 5. Further, the record reflects that this discrepancy was raised by counsel for the appellant board of education during the hearing before the BOR. S.T. at 10. While there was some discussion regarding this jurisdictional issue, the written transcript of the BOR hearing does not reflect the BOR’s conclusion with respect thereto. The BOR apparently determined that its jurisdiction was properly invoked as it proceeded to render a decision on the complaint in which it reduced the value of the subject property by \$131,300. S.T. at 13.

The appellee property owner filed with this board a response to the show cause order. In said response, however, the property owner failed to address the

ownership of parcel number 24-01045. The property owner's response addressed the ownership of several parcel numbers on Cinnamon Lane in High Oaks Reserve and, more specifically, reflected that Ronald W. Rose was the owner of 4728 Cinnamon Lane, which appears to be parcel number 79-73690. Notwithstanding this response, the property owner did not provide this board with information as to the ownership of the property identified in the complaint and at issue herein, parcel number 24-01045.

The issue before us is whether the complaint filed with the BOR invoked its jurisdiction given the manner in which the property owner prepared the complaint. For the reasons stated below, we find that the complaint did not invoke the jurisdiction of the BOR.

R.C. 5715.19(A)(1)(e) provides:

“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 was 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.”

A valid complaint filed pursuant to R.C. 5715.19 and 5715.13 must include all information that goes to the core of procedural efficiency. *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision* (1998), 80 Ohio St.3d 591; *Renner v.*

Tuscarawas Cty. Bd. of Revision (1991), 59 Ohio St.3d 142; *Akron Standard Div. v. Lindley* (1984), 11 Ohio St.3d 10. In this context, this board has previously discussed the need for a complainant to correctly identify an owner of a property the valuation of which is being challenged. *Trotwood-Madison City School Dist. Bd. of Edn. v. Montgomery Cty. Bd. of Revision* (June 30, 1997), BTA No. 1995-S-1282, unreported; *Triple V's Holding v. Cuyahoga Cty. Bd. of Revision* (Apr. 24, 2000), BTA No. 1997-K-1701, unreported. This board concluded that the need to identify an owner runs to the core jurisdiction of a county board of revision. The clear import of this requirement is to ensure that in those instances in which someone other than an owner files a complaint, an owner receives those notices attendant to the filing. See *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2000), 87 Ohio St.3d 363, at 365, for a discussion of the various notices required to be given to an owner. This board has previously held that this core requirement is met where at least one of the owners is named on the complaint form; a complainant need not name all owners. *City of Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Jan. 22, 1999), BTA No. 1998-L-138, unreported; *Bd. of Edn. of the Delaware City Schools v. Delaware Bd. of Revision* (Feb. 5, 1999), BTA No. 1997-L-871, unreported. With this in mind, it is noted that in *Public Square Tower One v. Cuyahoga Cty. Bd. of Revision* (1986), 34 Ohio App.3d 49, at 52, the court held that, “[t]he most rational interpretation of the statute and the form governing complaints is that ‘owner’ means the owner when the complaint is filed.”

“However, we have never adopted a ‘bright line’ test as to what constitutes a properly identified owner on a complaint, and have avoided raising jurisdictional barriers in instances of minor differences in an owner’s actual name versus the name listed on a complaint.” *Paul Grammas Family L.P. v. Clermont Cty. Bd. of Revision* (Interim Order, Feb. 27, 2004), BTA No. 2003-T-905, unreported, at 6. Thus, in *Cleveland Bluffs Dev. LLC v. Cuyahoga Cty. Bd. of Revision* (Dec. 19, 2003), BTA Nos. 2002-V-1632, 1766, 1767, unreported, this board found that a listing of the owner’s name that omitted the word “Bluffs” did not constitute a jurisdictional defect.

Nevertheless, the matter before this board discloses more than a minor difference in name. “Rose Development LLC” is a separate legal entity from “Ronald W. Rose, Jr. & Betty Rose.” See *Cedar Heights Co. v. Cuyahoga Cty. Bd. of Revision* (July 20, 2001), BTA Nos. 2000-J-1714, 1774, unreported (concluding that failure to list an owner on the complaint failed to vest the BOR with jurisdiction where complaint listed “The Cedar Heights Company” as owner when the actual owner of the property as of the date the complaint was filed was “Cedar Heights Building, L.L.C.”). Cf. *Tri-Cam Properties, LLC v. Lake Cty. Bd. of Revision* (Interim Order, Apr. 6, 2007), BTA No. 2006-V-1268, unreported (concluding that jurisdiction was properly vested with the county board of revision where the complaint listed Tri-Cam Properties on Line 1 and Tri-Cam Properties, LLC was the property owner).

The record indicates that Ronald W. Rose, Jr. & Betty Rose were the holders of legal title to the subject property on the date that the valuation complaint

was filed. The appellee property owner's response to the show cause order failed to address the property at issue in this appeal, parcel number 24-01045, and therefore failed to demonstrate to this board that Rose Development LLC was in fact the owner of parcel number 24-01045 as of the date on which the complaint was filed with the BOR.

Based on the existing record before us, we find that the complaint filed by the appellee property owner with the BOR did not properly reflect the owner of the subject property on Line 1 of said complaint and therefore, failed to invoke the jurisdiction of the BOR. Accordingly, it is the order of this board that this appeal be remanded to the BOR with instructions to dismiss the underlying complaint filed by the appellee property owner.

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