

**OHIO BOARD OF TAX APPEALS**

Lakeland Terrace Apartments Company, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 Cuyahoga County Board of Revision, )  
 Cuyahoga County Auditor, and Euclid )  
 City School District Board of Education, )  
 )  
 Appellees. )

CASE NO. 2008-Z-1980

(REAL PROPERTY TAX)

ORDER

(Granting Motion to Compel Discovery  
and Ordering Board of Revision to File  
Statutory Transcript)

APPEARANCES:

For the Property Owner - Siegel Siegel Johnson & Jennings Co., L.P.A.  
Cecilia Hyun  
25700 Science Park Drive, Suite 210  
Cleveland, Ohio 44122

For the County Appellees - William D. Mason  
Cuyahoga County Prosecuting Attorney  
Timothy J. Kollin  
Assistant Prosecuting Attorney  
1200 Ontario Street, 8<sup>th</sup> Floor  
Cleveland, Ohio 44113

For the Bd. of Edn. - Britton, Smith, Peters & Kalail Co., L.P.A.  
Michael E. Stinn  
3 Summit Park Drive, Suite 400  
Cleveland, Ohio 44131

Entered February 24, 2009

This cause and matter came on to be considered by the Board of Tax Appeals upon a motion to compel discovery filed by counsel for the Euclid City School District Board of Education (“BOE”). Neither the property owner nor the county appellees filed a response with this board to the BOE’s motion.

Before considering the merits of the BOE's motion, the board notes that the property owner filed its notice of appeal in this matter on October 17, 2008. The BOE's motion to compel was filed with this board on January 28, 2009. Pursuant to Ohio Adm. Code 5717-1-11(A)(1), "Discovery should be completed not more than one hundred twenty days after the filing of the notice of appeal, which shall also be the last day for a party to seek involvement of the board in discovery matters." Accordingly, the discovery period in this matter expired on or about February 16, 2009. Under Ohio Adm. Code 5717-1-11(A)(1), the BOE's motion to compel was timely filed. The board shall proceed to consider the merits of the motion.

The BOE's motion to compel discovery provides, in pertinent part:

"Now comes Appellee Euclid City School District Board of Education ("BOE"), by and through counsel, Britton, Smith, Peters & Kalail Co., L.P.A., to hereby move this Board pursuant to Section 5717-1-11(A)(2) of the Ohio Administrative Code and Rule 37(A) of the Ohio Rules of Civil Procedure to issue an Order compelling Appellant Lakeland Terrace Apartments Company ("Appellant") to respond to the BOE's First Set of Interrogatories and Request for Production of Documents."

In its brief in support of said motion, the BOE indicated that it served upon the appellant property owner interrogatories and requests for production of documents on December 1, 2008. Thereafter, by way of letter dated January 14, 2009, the BOE requested that the property owner comply with its earlier discovery requests, since no responses had been received. The property owner failed to respond to the BOE's inquiry. Further, the property owner has failed to respond to this board regarding the instant motion to compel discovery.

Ohio Adm. Code 5717-1-11, which sets forth this board's rule for allowing discovery, provides in pertinent part:

“(A) Discovery may be permitted by deposition upon oral examination or written questions; written interrogatories; production of documents or tangible things or permission to enter upon land or other property; and requests for admissions. The ‘Ohio Rules of Civil Procedure’ shall be followed for discovery purposes to the extent they are not inconsistent with other board rules \*\*\*.”

Based upon our previous interpretations of the foregoing section, this board would normally expend considerable time and effort addressing each interrogatory and documentary request set forth in the BOE's motion to compel to determine whether such items or information would be properly compelled. However, in this instance, given that the property owner has apparently failed to respond to the BOE's informal discovery requests as well as its motion to compel, we will not undertake to provide such analysis. *Gerimi Co. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Jan. 4, 1995), BTA No. 1994-K-1030, unreported; *Independence Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Sept. 2, 1994), BTA No. 1994-A-106, unreported. As the information sought by the BOE is not patently undiscoverable and is reasonably relevant to the subject matter involved in this appeal, this board finds that the BOE's motion to compel discovery is well taken.

Accordingly, the motion to compel discovery is hereby granted. It is therefore the order of the Board of Tax Appeals that the property owner, *within fourteen (14) days of the issuance of this order*, shall respond to the BOE's discovery

request by submitting the requested documents and providing the requested information.

It is further the order of this board that *within fourteen (14) days of the issuance of this order* the Cuyahoga County Board of Revision prepare and file with this board the statutory transcript as required by Ohio Adm. Code 5717-1-09(B).

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