

OHIO BOARD OF TAX APPEALS

Brian Burns,) CASE NOS. 2008-Z-763
) 2008-Z-764
 Appellant,) 2008-Z-765
)
 vs.) (REAL PROPERTY TAX)
)
 Summit County Board of Revision) ORDER
 and Summit County Fiscal Officer,)
) (Requiring the County Appellees
 Appellees.) to Show Cause)

APPEARANCES:

- For the Appellant - Brian Burns, pro se
54 Club Course Drive
Hilton Head, South Carolina 29928

- For the County Appellees - Sherri Bevan Walsh
Summit County Prosecuting Attorney
Milton C. Rankins
Assistant Prosecuting Attorney
220 South Balch Street, Suite 118
Akron, Ohio 44302

Entered April 14, 2009

These appeals are now considered, sua sponte, by the Board of Tax Appeals following a review of the notices of appeal filed herein by the above-named appellant from decisions of the Summit County Board of Revision (“BOR”). In said decisions, the BOR dismissed the complaints filed by the appellant.

A review of the records in these appeals reveals that the property owner filed three complaints for three separate parcels with the BOR on March 18, 2008 requesting a decrease in the valuation of the subject properties for tax year 2007. S.T.

at 1. In each of said complaints, “Brian P. Burns” was listed on Line 1 as the owner of the subject property and each of said complaints appears to be signed by Brian P. Burns. Id. Likewise, the property record cards included in the statutory transcripts certified to this board by the Summit County Fiscal Officer reflect “Brian P. Burns” as the owner of each of the subject properties. S.T. at 2. During the hearing before the BOR, the appellant’s father, Mr. Patrick Burns, provided testimony regarding the subject properties. S.T. at Audiodisc. There was no testimony or other evidence submitted during the BOR hearing regarding the preparation and filing of the complaints. Id. The statutory transcript is void of any references to or record of any questions or discussions regarding the preparation and filing of the complaints. Nevertheless, the BOR dismissed all three of the complaints for lack of jurisdiction based upon the finding that the complaints were prepared and filed by a non-attorney. S.T. at 4.

The critical inquiry for purposes of determining the vesting of jurisdiction in a board of revision is whether the record demonstrates the initiation of proceedings by the filing of a jurisdictionally valid complaint, i.e., a complaint prepared and filed either by the property owner acting in a pro se capacity or by an attorney authorized to practice law acting on the property owner’s behalf. See *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2001), 91 Ohio St.3d 308.

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 ***.” (Emphasis added.)

Additionally, where, as here, the complaints before the BOR were decrease complaints, 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.” (Emphasis added.)

The above provisions clearly provide for the preparation and filing of a complaint with a board of revision by the property owner. In the instant matters, the complaints appear to have been prepared and filed by the property owner. There is no indication in the existing records in the instant matters that the complaints were prepared and filed by someone other than the property owner. While the existing records reflect that the property owner’s father appeared and testified before the BOR, there is no indication that the complaints were prepared and filed by the property owner’s father.

In *Cincinnati*, supra, the Ohio Supreme Court considered the jurisdictional validity of a complaint and held that an attorney who prepares and signs an R.C. 5715.19 valuation complaint in his or her capacity as an attorney-at-law and files it, or directs its filing, in accord with R.C. Chapter 5715, has thereby “prepared and filed” that complaint for purposes of determining whether jurisdiction has vested in a county board of revision. Likewise, in the instant matters, the existing records

appear to indicate that the appellant prepared and signed the R.C. 5715.19 valuation complaints in his capacity as the owner of the subject properties and filed them, or directed their filing, in accordance with R.C. Chapter 5715, and thereby “prepared and filed” said complaints for purposes of determining whether jurisdiction was vested in the BOR. If this is the case, then the jurisdiction of the BOR was properly invoked. For this reason, the county appellees are hereby ordered to file a written response with this board *within fourteen (14) days of the issuance of this order* regarding why the BOR’s dismissal of the complaints should not be vacated and these matters remanded to the BOR for proceedings on the merits.

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