

## OHIO BOARD OF TAX APPEALS

Noam Lazebnik,	)	CASE NO. 2008-Z-927
	)	
Appellant,	)	(REAL PROPERTY TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Cuyahoga County Board of Revision	)	
and Cuyahoga County Auditor,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant	-	Noam Lazebnik, pro se 2625 Meadoway Drive Beachwood, 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
Copy to Bd. of Edn. <sup>1</sup>	-	Brindza McIntyre & Seed LLP Daniel McIntyre 1111 Superior Avenue, Suite 1025 Cleveland, Ohio 44114

Entered April 14, 2009

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

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<sup>1</sup> A copy of this decision and order is provided to counsel for the Board of Education for the Beachwood City School District (“BOE”) as the statutory transcript certified to this board by the county auditor reflects that the BOE filed a counter-complaint with the county board of revision and participated in the proceedings before the county board of revision. The BOE, however, has not entered an appearance in this matter before this board.

This appeal is now being considered following the issuance of an order on February 10, 2009 requiring the appellant to show cause as to why this board should not dismiss the instant appeal since the appellant did not file a copy of his notice of appeal with the Cuyahoga County Board of Revision as required by R.C. 5717.01. While the appellant filed a response to the show cause order, the county appellees did not do so.

A review of the record reveals that the county board of revision indicated, in the statutory transcript certified to this board, that the decision of the county board of revision was mailed to the appellant on May 27, 2008. Appellant filed his notice of appeal with this board on June 26, 2008, but, according to the statutory transcript, did not file a copy of such notice of appeal with the county board of revision as required by R.C. 5717.01.

In his response to the show cause order, the appellant indicates as follows:

“As I am not a legal scholar, the documents that I have previously received were confusing. I failed to understand the necessity of submitting my application for appeal to several different locations. My understanding has been that by filing the notice of appeal with the Ohio board of tax appeals [sic] that the requirements for an appeal were met. I have sent the requisite documents to the board of revision.”

Additionally, the appellant attached to his response a copy of the show cause order issued on February 10, 2009 as well as a copy of a complaint dated February 18, 2009.

In determining whether we have jurisdiction in the instant appeal, we must consider R.C. 5717.01, which sets forth the jurisdictional requirements to appeal from a decision of a county board of revision to this board. R.C. 5717.01 reads in pertinent part, as follows:

“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 division (A) of 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 requirements of R.C. 5717.01 are specific and mandatory in nature.

When a statute confers the right of appeal, adherence to the terms and conditions set forth therein is essential to the enjoyment of the right conferred. *Am. Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147. The statutory requirements for filing a notice of appeal from a decision of a county board of revision are mandatory and jurisdictional. *Bd. of Edn. of Mentor v. Bd. of Revision* (1980), 61 Ohio St.2d 332. As strict compliance with R.C. 5717.01 is essential to vest jurisdiction with this board, and since the appellant did not file a copy of his notice of appeal with the county board of revision within 30 days of the mailing of the decision letter issued by the county board of revision, we are constrained to find that the Board of Tax Appeals does not have jurisdiction to consider the instant matter. See *Hope v. Highland Cty. Bd. of Revision* (1990), 56 Ohio St.3d 68.

Based upon the aforementioned jurisdictional defect, it is the decision and order of the Board of Tax Appeals that the instant appeal must be and hereby is dismissed.

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