

OHIO BOARD OF TAX APPEALS

BT-OH LLC,)	
)	CASE NO. 2008-Z-92
Appellant,)	
)	(REAL PROPERTY TAX)
vs.)	
)	ORDER
Lucas County Board of Revision, Lucas County Auditor, and Board of Education for Maumee City Schools,)	
)	(Granting Appellant's Motion to Supplement the Record and Requiring the Appellant to Show Cause)
Appellees.)	

APPEARANCES:

For the Appellant
Property Owner

- Stephen Swaim
Attorney at Law
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Columbus, Ohio 43215

For the County
Appellees

- Julia R. Bates
Lucas County Prosecuting Attorney
Carol Bruggeman
Assistant Prosecuting Attorney
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For the Appellee
Bd. of Edn.

- Spengler Nathanson PLL
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Entered May 12, 2009

This matter is considered by the Board of Tax Appeals upon the filing of a motion to supplement the record by counsel for the appellant property owner. In said motion, the appellant property owner requests that this board permit the property

owner to supplement the record with a copy of the certified mail receipt and return receipt demonstrating that its notice of appeal was timely filed with the Lucas County Board of Revision (“BOR”) as required by R.C. 5717.01.

The BOR indicates, in the statutory transcript certified to this board, that the BOR’s decision was mailed to the appellant on December 17, 2007 and that the appellant filed its notice of appeal with the BOR on January 23, 2008,¹ or 37 days after the date on which the BOR mailed its decision to the appellant. The appellant has moved this board to supplement the record with a copy of the certified mail receipt which indicates that its notice of appeal was mailed to the BOR by way of certified mail on January 15, 2008. Accordingly, pursuant to R.C. 5717.01, the notice of appeal has a deemed filing date of January 15, 2008, or 29 days after the date on which the BOR mailed its decision. Likewise, the appellant filed its notice of appeal with this board on January 15, 2008, prior to the expiration of 30 days after the mailing of the

¹ Upon review of the statutory transcript, it is noted that this board’s docketing letter dated January 17, 2008 to the BOR notifying the BOR of this board’s receipt of the notice of appeal and the docketing of the same was received by the BOR on January 23, 2008 as evidenced by the date stamp that appears thereon. S.T. at 4-5. It appears that the BOR reflected the date of its receipt of this board’s docketing letter as the filing date of the notice of appeal since the DTE Form 3 reflects January 23, 2008 on Line 5 as the date that the notice of appeal was filed with the BOR. S.T. at 1. The BOR should adhere to the requirements set forth in R.C. 5717.01 regarding the deemed filing date of notices of appeal in the event they are filed by way of certified mail. R.C. 5717.01 provides, in pertinent part, as follows:

“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. If notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, *the date of the United States postmark placed on the sender’s receipt by the postal service* or the date of receipt recorded by the authorized delivery service *shall be treated as the date of filing.*” (Emphasis added).

decision by the BOR. The appellant's motion to supplement the record is hereby granted and the filing of the notices of appeal is hereby deemed timely pursuant to R.C. 5717.01

This board's consideration of whether its jurisdiction is proper in the instant matter does not end with the foregoing finding. A review of the record reveals that the property owner filed a complaint with the BOR on March 28, 2007 requesting a decrease in the valuation of the subject property for tax year 2006. S.T. at 9. In said complaint, "BT-OH LLC" was listed on Line 1 as the owner of the property. Id. In contrast, the property record card included in the statutory transcript reflects "CHIO Corporation" as the owner of the subject property. S.T. at 14. The BOR rendered a decision on the complaint in which it reduced the value of the subject property by \$1,200,000. S.T. at 21.

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 is 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 whose valuation 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 with 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. “BT-OH LLC” appears to be a separate legal entity from “CHIO Corporation.” See *Cedar Heights Co. v. Cuyahoga Cty. Bd. of Revision* (July 20, 2001), BTA Nos. 2000-J-1714, 1774, unreported (this board concluded 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 (this board concluded 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).

Based on the existing record, it appears as though CHIO Corporation was the holder of legal title to the subject property on the date that the valuation complaint was filed and that BT-OH LLC was not the owner of the property for purposes of filing the subject complaint. If this is the case, then the jurisdiction of the BOR was not properly invoked. For this reason, the appellant property owner is hereby ordered to file a written response with this board *within fourteen (14) days of the issuance of this order* regarding whether it properly identified the owner of the subject property on the complaint such that the jurisdiction of the BOR was properly invoked.

A merit hearing was previously scheduled for the instant matter on June 25, 2009. Counsel for the appellee board of education requested a continuance of said hearing. The previously scheduled merit hearing has been removed from the hearing schedule pending resolution of the jurisdictional issue raised herein.

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