

**OHIO BOARD OF TAX APPEALS**

David J. Fox, )  
 )  
 Appellant, ) (CASE NO. 2009-A-348  
 ) (REAL PROPERTY TAX)  
 vs. )  
 ) DECISION AND ORDER  
 )  
 Cuyahoga County Board of Revision )  
 and Cuyahoga County Auditor, )  
 )  
 Appellees. )

APPEARANCES:

For the Appellant - David J. Fox, pro se  
6719 Canterbury Drive  
Middleburg, Ohio 44130

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

Entered June 9, 2009

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

This appeal is now considered by the Board of Tax Appeals following the issuance of an order requiring that the “appellant show cause why this board should not dismiss the instant appeal for failure to file with this board and the BOR in a timely fashion.” The order was premised upon the statutory requirements of R.C. 5717.01, which specifically provide 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.)

In the order, the pertinent facts of the instant appeal were briefly set forth, as follows:

“\*\*\*the record before us indicates that the board of revision’s decision was issued and mailed on January 28, 2009. Appellant did not file his notice of appeal with this board until March 4, 2009, and with the board of revision until March 2, 2009.”

No responses to the board’s order were received.

As a creature of statute, we have only the jurisdiction, power, and duties expressly given by the General Assembly. *Steward v. Evatt* (1944), 143 Ohio St. 547; *Leiphart Lincoln-Mercury, Inc. v. Bowers* (1958), 107 Ohio App. 259. 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 and 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 record demonstrates that appellant did not file his notice of appeal with this

board or with the board of revision within thirty days of the mailing of the decision letter issued by the Cuyahoga County Board of Revision, we must conclude 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.

Accordingly, it is the order of the Board of Tax Appeals that the above-styled matter must be, and hereby is, dismissed.

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