

OHIO BOARD OF TAX APPEALS

Scandanavian Health Spa, Inc.,)
)
 Appellant/Appellee,) CASE NOS. 2009-A-384, 2009-
) A-409, 2009-A-410
 and)
) (REAL PROPERTY TAX)
)
 Berea City School District Board of)
 Education,) ORDER
)
 Appellee/Appellant,) (Compelling Discovery)
)
 vs.)
)
 Cuyahoga County Board of Revision and)
 Cuyahoga County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Property Owner - Stephen Swaim
Attorney at Law
118 East Main Street
Columbus, Ohio 43215

For the Board of Education - Kadish, Hinkel & Weibel
Rita M. Jarrett
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Cleveland, Ohio 44114

For the County Appellees - William D. Mason
Cuyahoga County Prosecuting Attorney
Timothy J. Kollin
Assistant Prosecuting Attorney
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1200 Ontario Street
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Entered June 23, 2009

This cause and matter came on to be considered by the Board of Tax Appeals upon a “Motion to Compel Discovery” filed by the board of education. The motion provides, in pertinent part:

“Now comes Berea City School District Board of Education, *** and pursuant to Section 5717-1-11(A) of the Ohio Administrative Code and Rule 37(A) of the Ohio Rules of Civil Procedure, hereby moves this Board to issue an order compelling Appellant Scandinavian [sic] Health Spa, Inc. to respond to outstanding discovery requests that were served upon Scandinavian [sic] Health Spa, Inc. on or about April 3, 2009.”

In its brief in support, the board of education indicated that it served upon the property owner Scandanavian Health Spa, Inc. (“Scandanavian”) a request for production of documents and interrogatories on April 3, 2009. Reminder letters seeking compliance with the outstanding discovery requests were also sent to Scandanavian by the board of education on May 1, 2009 and May 19, 2009. As of June 1, 2009, the property owner had not yet responded to the discovery request. Further, Scandanavian also failed to respond to this board regarding the instant motion to compel.

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,’ effective July 1, 2008, 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 board of education's motion to compel to determine whether such items or information would be properly compelled. However, in this instance, given that Scandanavian has apparently failed to respond to the board of education'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* (Jan. 4, 1995), BTA No. 1994-K-1030, unreported; *Independence Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Sept. 2, 1994), BTA No. 1994-A-106, unreported. As the information sought by the board of education is not patently undiscoverable and is reasonably relevant to the subject matter involved in this appeal, this board finds that the appellee board of education's motion to compel discovery is well taken.

Accordingly, the motion to compel is hereby granted. It is therefore the order of the Board of Tax Appeals that Scandanavian, within fourteen days of the issuance of this order, shall respond to the board of education's discovery request by submitting the requested documents and providing the requested information.

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