

**OHIO BOARD OF TAX APPEALS**

WEC 99D-27LLC, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 Cuyahoga County Board of Revision, )  
 Cuyahoga County Auditor, and North )  
 Royalton School District Board )  
 Of Education, )  
 )  
 Appellees, )  
 )

CASE NO. 2009-B-178  
  
(REAL PROPERTY TAX)  
  
ORDER  
  
(Extending Discovery Period)

APPEARANCES:

For the Appellant - Sleggs, Danziner & Gill Co., LPA  
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For the County Appellees - William D. Mason  
Cuyahoga County Prosecuting Attorney  
Timothy Kollin, Esq.  
Assistant Prosecuting Attorney  
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For the Bd. of Edn. - Britton, Smith, Peters & Kalail Co., LPA  
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Entered June 16, 2009

The Board of Tax Appeals (“BTA”) considers this matter pursuant to a motion to extend the discovery period, which was filed by counsel for the board of education herein under date of May 29, 2009. Counsel asks this board to extend the

discovery deadline by thirty days beyond the one-hundred and twenty day time frame. No response from the county appellees or appellant was received.

Specifically, said motion requests that this board extend the discovery deadline due to non-response of the appellant to the BOE's May 20, 2009 discovery requests.

The notice of appeal were filed on January 29, 2009. Based upon the date on which the subject appeal was filed, the deadline for seeking assistance from this board on discovery matters in this instance was May 29, 2009. The instant motion was filed on May 29, 2009.

Ohio Adm. Code 5717-1-11 (A)(1) provides that “[U]pon motion and for good cause, the board may establish other specific times for completion of discovery or consideration of discovery motions.” Herein, instead of requesting an order compelling discovery, the BOE seeks an extension of the discovery period for 30 days. In *Spalding Leasing Co. v. Cuyahoga Cty. Bd. of Revision* (Interim Order, Jan. 14, 2000), BTA No. 1999-K- 1460, 1475, unreported, a case in which a similar motion to extend discovery was sought, the board concluded:

“Although Ohio Adm. Code 5717-1-11(A)(1) contemplates that there may exist *extraordinary* circumstances wherein the deadline for completing discovery and seeking this Board's intervention in discovery matters may be extended, it requires the movant under such circumstances to demonstrate good cause. In this instance, good cause is found lacking. Merely because a party upon whom discovery has been served has not responded, does (sic) not justify an extension of discovery until some uncertain period in the future. \*\*\* If this Board were to routinely grant such motions, the exception to the general deadlines set forth in Ohio Adm. Code 5717-1-11

would consume the rule. Accordingly, the BOE's motion to extend discovery is not well-taken and it is hereby denied." Id. at 3. (Emphasis in original)

This board has ordered extensions of discovery periods when the parties to the appeal communicate a willingness to comply with discovery requests; in the present appeal there has been no suggestion that opposing counsel has responded in any manner or sought additional time. Therefore, because this request is made at the end of the period during which intervention of the board may be sought, the board will construe the motion filed to be in the nature of a motion to compel discovery. The board hereby provides the appellant a period of 21 days from the date of this decision in which to respond to the BOE's requests.

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