

OHIO BOARD OF TAX APPEALS

Chester L. Cypher,)	
)	
Appellant,)	CASE NO. 2009-Z-306
)	
vs.)	(REAL PROPERTY TAX)
)	
Medina County Board of Revision)	ORDER
and Medina County Auditor,)	
)	(Requiring Appellant
Appellees.)	to Show Cause)

APPEARANCES:

For the Appellant - Chester L. Cypher, pro se
932 Sandy Lane
Medina, Ohio 44256

For the County Appellees - Dean Holman
Medina County Prosecuting Attorney
Christine M. Brothag
Assistant Prosecuting Attorney
72 Public Square
Medina, Ohio 44256

Entered April 7, 2009

This appeal is now considered, sua sponte, by the Board of Tax Appeals following a review of the notice of appeal filed herein by the above-named appellant from a decision of the Medina County Board of Revision. In said decision, the board of revision dismissed the complaint filed by the appellant property owner for tax year 2008.

Specifically, this board must determine whether it has jurisdiction to consider the instant matter. The county board of revision, in the statutory transcript certified to this board, indicates that the board of revision's decision was mailed to the

appellant on February 20, 2009. Appellant filed his notice of appeal with this board on February 27, 2009, 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.

R.C. 5717.01 specifically provides the jurisdictional requirements to appeal from a decision of a county board of revision to this board. It 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, it is therefore the order of this board that the appellant show cause why this board should not dismiss the instant appeal for failure to file a copy of his notice of appeal with the county board of revision. See *Hope v. Highland Cty. Bd. of Revision* (1990), 56 Ohio St.3d 68.

There appears to be a secondary jurisdictional issue in this matter. A review of the statutory transcript reveals that the county board of revision dismissed the appellant's complaint for tax year 2008 since it determined that such complaint was a second filing of a complaint within the same triennium period prohibited by R.C. 5715.19(A)(2) and the appellant failed to allege any of the four circumstances set forth in R.C. 5715.19(A)(2)(a)-(d).

Accordingly, it is the order of this board that in the event the appellant demonstrates to this board that he did timely file a copy of his notice of appeal with the county board of revision pursuant to the requirements set forth in R.C. 5717.01, then the appellant shall show cause why this board should not affirm the county board of revision's dismissal of the complaint for tax year 2008 on the basis that said complaint constituted a second filing within the same triennium period prohibited by R.C. 5715.19(A)(2).

All parties who wish to be heard upon the jurisdictional issues identified herein shall file a written response to this order *within fourteen days of its issuance*.

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