



Willoughby-Eastlake  
Board of Education

Board of Education  
37047 Ridge Road  
Willoughby, Ohio 44094

Entered March 13, 1998

Mr. Johnson, Ms. Jackson and Mr. Manoranjan concur.

These appeals are now considered by the Board of Tax Appeals following the issuance of an Order terminating a stay of proceedings which had been previously granted based upon appeals then pending before the Supreme Court of Ohio. In Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision (1998), 80 Ohio St.3d 591, a majority of the court reversed this Board's decision affirming dismissals of appellants' 1994 complaints by the Lake County Board of Revision ("BOR"). The present appeals were stayed as they involved the same property for the 1995 tax year. Although the parties were accorded the opportunity to file memoranda regarding these appeals, none have been timely forthcoming.

In this instance, the BOR dismissed appellants' complaints on the basis of R.C. 5715.19(A)(2), the apparent purpose of which was described by one appellate court as an effort "to reduce the number of filings [with county boards of revision], while still allowing new tax valuations in interim years under limited circumstances." Dublin City School Dist. v. Franklin Cty. Bd. of Revision (1992), 79 Ohio App.3d 781, 784. In this regard, R.C. 5715.19(A)(2) provides as follows:

"As used in division (A)(2) of this section,  
'interim period' means for each county, the

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represented the counter-complainant before the Lake County Board of Revision will be advised of this Order at his address of P.O. Box 20565, Columbus, Ohio 43220.

tax year to which section 5715.23 of the Revised Code applies and each subsequent tax year until the tax year in which that section applies again.<sup>2</sup>

"No person, board or officer shall file a complaint against the valuation of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period, unless the person, board or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:

"(a) The property was sold in an arm's length transaction, as described in section 5713.03 of the Revised Code;

"(b) The property lost value due to some casualty;

"(c) Substantial improvement was added to the property;

"(d) An increase or decrease of at least fifteen per cent in the property's occupancy has had a substantial economic impact on the property."

Accordingly, in order for a complainant to be permitted to file a complaint contesting the value assigned the same real property within the same interim period as one in which an earlier complaint has been filed on its behalf, that complainant must allege on the second complaint one of the circumstances enumerated

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<sup>2</sup>The "interim period" to which R.C. 5715.19(A)(2) refers is the three year period following the year in which a sexennial reappraisal is completed. Pertinent in this appeal, the sexennial reappraisal for Lake County was completed in 1994, with a triennial update scheduled to have occurred in 1997.

in R.C. 5715.19(A)(2)(a) through (d). The failure to comply with this statutory requirement deprives a county board of revision of the authority to consider the valuation issues raised and requires the dismissal of the complaint. See Gammarino v. Hamilton Cty. Bd. of Revision (1994), 71 Ohio St.3d 388.

As the court held in Columbia Toledo Corp. v. Lucas Cty. Bd. of Revision (1996), 76 Ohio St.3d 361, a complainant must specifically allege on the face of its complaint one of the circumstances set forth within the preceding statute in order for a county board of revision to have jurisdiction to consider that complainant's second valuation challenge within the same interim period:

"Contrary to Columbia's contention, it is not the responsibility of a county board of revision to analyze raw data submitted by a taxpayer to determine whether any of the circumstances enumerated in R.C. 5715.19(A)(2) is applicable. The statute clearly places the burden on the taxpayer to allege one of the enumerated circumstances in order to file a second complaint in the same interim period. After the taxpayer has alleged at least one of the circumstances set forth in R.C. 5715.19(A)(2), then a county board of revision may undertake to analyze the data to verify the taxpayer's allegations." Id. at 362-363.

The complaints which appellants filed in this instance challenging the value of the subject property for 1995 were the second within the same three year period referenced within R.C. 5715.19(A)(2). Nowhere on the face of the complaints did appellants allege one of the changes in circumstances set forth in R.C. 5715.19(A)(2). Instead, appellants claimed that a decrease was warranted for the following reason:

"Preliminary appraisal analysis indicates that physical deterioration and obsolescence of the subject property has resulted in a decrease in market value below the auditor's value."

Clearly, the preceding statement fails to allege one of the circumstances set forth in R.C. 5715.19(A)(2). Accordingly, these complaints failed to vest the BOR with jurisdiction to consider said complaints.<sup>3</sup>

We note that in a prior pleading filed with this Board, appellants acknowledged that the issue it sought to have decided by this Board in these appeals may be rendered moot:

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<sup>3</sup>In Cleveland Elec. Illum., supra, the majority held that the appellants' responses of "[t]o be determined" on line 8 of DTE Form 1, which asks the complainant to state that "the increase or decrease in taxable value requested is justified for the following reasons," did not cause the county board of revision to be without jurisdiction to consider their complaints. In reaching this conclusion, the court stated as follows:

"We find that Question 8 of the DTE form used in this case does not elicit information required by R.C. 5715.13. The Stanjim court characterized the data requirements of R.C. 5715.13 and 5715.19 as 'minimal.' \*\*\* Question 8 does not seek data, it seeks an argument. As such it seeks much more than the minimal amount of information required by the Stanjim form. We find that R.C. 5715.13 does not require a response to Question 8 on the DTE 1 form used in this case." Id. at 595. (Citations omitted.)

The complaint form used in Cleveland Elec. Illum. was the same form used in Columbia Toledo Corp., supra, wherein the court, in its per curiam opinion, held that the appellant's response to the above-quoted question was insufficient to satisfy the requirements of R.C. 5715.19(A)(2). Although the court in Cleveland Elec. Illum. did not do so expressly, a question certainly exists as to whether or not the court has implicitly overruled its decision in Columbia Toledo Corp. We simply acknowledge this issue exists and will reserve for another day addressing the argument when presented by the parties.

"If the Supreme Court finds for Appellant in the 1994 Case, it will remand the 1994 Case for a determination of the value of the subject property. If so, the 1995 Case (and this appeal) will become moot." Brief in Support of Appellant's Motion to Stay Proceedings at 2.

Based upon the foregoing, it is the decision of the Board of Tax Appeals that the underlying complaints were filed in contravention of R.C. 5715.19(A)(2) and as a result did not invoke the jurisdiction of the Lake County Board of Revision. It is therefore the order of this Board that the decision of that tribunal dismissing those complaints must be, and hereby is, affirmed.

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