

OHIO BOARD OF TAX APPEALS

Manor Healthcare Corporation,)	
)	CASE NO. 97-T-395
Appellant,)	
)	
vs.)	(REAL PROPERTY TAX)
)	
Cuyahoga County Board)	
of Revision, the Auditor)	ORDER
of Cuyahoga County and)	
the Westlake Board of Education,)	(Denying Motion to Reconsider)
)	
Appellees.)	

APPEARANCES:

For the Appellant -	Karen H. Bauernschmidt Arter & Hadden 925 Euclid Avenue 1100 Huntington Building Cleveland, Ohio 44115-1475
For the County Appellees -	William D. Mason Cuyahoga County Prosecuting Attorney By: David G. Lambert Courts Tower, 8 th Floor 1200 Ontario Street Cleveland, Ohio 44113
For the Westlake Bd. of Edn. -	Bill J. Gagliano Ulmer & Berne, LLP Bond Court Building 1300 East Ninth Street Suite 900 Cleveland, Ohio 44114

ENTERED: July 16, 1999

Mr. Johnson and Mr. Manoranjan concur. Ms. Jackson not participating.

On June 18, 1999, this Board issued a Decision and Order in this matter, affirming the Cuyahoga County Board of Revision's dismissal of the decrease complaint filed by Manor Healthcare on the subject property for tax year 1994. The decrease was filed on behalf of Manor Healthcare by Michelle L. Winkler, who was identified on the complaint as a "property tax specialist." (S.T. Exhibit A.) Manor Healthcare had described Ms. Winkler as an "asset manager" who is an employee of Manor Healthcare. In conformity with the Court's ruling in *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156, we concluded that the complaint was insufficient to invoke the jurisdiction of the Board of Revision and therefore affirmed the dismissal of the complaint by that tribunal.

On July 13, 1999, Manor Healthcare filed with this Board a "Motion to Reconsider and Vacate the Board's Order." Manor's motion is premised upon our decision in *34501 Heritage Ltd. V. Cuyahoga Cty. Bd. of Revision* (June 18, 1999), BTA No. 97-M-1059, unreported, and upon the General Assembly's recent enactment of Sub. H.B. 283, Section 149, which became effective on July 1, 1999. In *Heritage Ltd.*, we concluded that the taxpayer's complaint was sufficient to invoke the jurisdiction of the Board of Revision under R.C. 5715.13 and 5715.19, as amended and made applicable to timely filed complaints for tax years 1996 and 1997 by Sub. H.B. 694, effective March 30, 1999.

Our June 18, 1999, Decision and Order was issued in accordance with the existing law and did not extend the amended provisions of R.C. 5715.13 and 5715.19

pursuant to the uncodified section 3 of Sub. H.B. 694 to Manor Healthcare's complaint because the complaint had been filed on the 1994 tax year, a year not covered by the Act. Subsequent to our Decision and Order, however, the 123rd General Assembly passed Sub. H.B. 283. Section 149 of that Act, effective July 1, 1999, amended uncodified section 3 of Sub. H.B. 694 as follows:

“Sec. 3. The amendment by Sub. H.B. 694 of the 122nd General Assembly of Sections 5715.13 and 5715.19 of the Revised Code is remedial legislation and applies to any complaint that was timely filed under either of those Sections respecting valuation for tax year 1994, 1995, 1996, or 1997, and to complaints filed for tax years 1998 and thereafter. Notwithstanding division (A)(2) of Section 5715.19 of the Revised Code, any person authorized by this act to file a complaint under Section 5715.13 or 5715.19 of the Revised Code that timely filed a complaint for tax year 1994, 1995, 1996, or 1997 may file a complaint under those Sections, as amended by this act, on or before March 31, 2000, respecting valuations for tax year 1994, 1995, 1996, 1997, or 1998, and the board of revision shall proceed to hear the complaints as otherwise provided under Chapter 5715. of the Revised Code.”¹

Given that this Act has now extended the amendments contained in Sub. H.B. 694 to the 1994 and 1995 tax years, Manor Healthcare urges us to likewise apply our decision in *Heritage, supra*, to complaints filed on the 1994 and 1995 tax years. On this basis, Manor Healthcare asks us to vacate our original decision and find its complaint jurisdictionally sufficient. We decline such a request.

¹ Section 150 of Sub. H.B. 283 repeals the previous version of Section 3 of Sub. H.B. 694.

Nevertheless, Manor Healthcare has been provided an adequate remedy. Section 149 of Sub. H.B. 283 provides that “[n]otwithstanding division (A)(2) of Section 5715.19 of the Revised Code, any person authorized by this act to file a complaint under Section 5715.13 or 5715.19 of the Revised Code that timely filed a complaint for tax year 1994, 1995, 1996, or 1997 *may file a complaint under those Sections, as amended by this act, on or before March 31, 2000, respecting valuations for tax year 1994, 1995, 1996, 1997, or 1998, and the board of revision shall proceed to hear the complaints as otherwise provided under Chapter 5715. of the Revised Code.*” (Emphasis added.) Similarly, R.C. 5715.19(A)(3), as added by Sub. H.B. 694, effective March 30, 1999, provides the following:

“If a county board of revision, the board of tax appeals, or any court dismisses a complaint filed under this section or section 5715.13 of the Revised Code for the reason that the act of filing the complaint was the unauthorized practice of law or the person filing the complaint was engaged in the unauthorized practice of law, the party affected by a decrease in valuation or the party’s agent, or the person owning taxable real property in the county or in a taxing district with territory in the county, may refile the complaint, notwithstanding division (A)(2) of this section.”

Even if we were to grant Manor Healthcare’s motion, the remedy afforded to it would be essentially the same. The Board of Revision did not find value in this instance. Hence, our jurisdiction was limited to a determination of whether the Board of Revision’s dismissal was reasonable and lawful. If we were to vacate our Decision and Order and find jurisdiction, as Manor Healthcare requests, we would still not be in a position to find value and would remand the matter to the Board of Revision for its

determination of value. Administrative efficiency would not be well served under these circumstances.

For the foregoing reasons, we therefore find that Manor Healthcare's "Motion to Reconsider and Vacate the Board's Decision and Order Issued on June 18, 1999," must be, and the same hereby is, denied.