

MRSLV Alliance LLC,	)	CASE NO. 98-N-510
	)	
Appellant,	)	
	)	
vs.	)	
	)	(REAL PROPERTY TAX)
Auditor and Board of	)	
Revision of Stark County,	)	DENYING MOTION TO DISMISS
and the Alliance	)	
City Schools,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant	-	Wayne E. Petkovic P.O. Box 20565 Columbus, Ohio 43220
For the County Appellees	-	Robert D. Horowitz County Prosecutor Courthouse Canton, Ohio 44702
For the Alliance City Schools Board of Education	-	Andrew Zumbar Law Director Alliance City Schools 470 East Market Alliance, Ohio 44601

Entered: December 18, 1998.

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

This matter is before the Board of Tax Appeals upon a notice of appeal filed by MRSLV Alliance LLC ("MRSLV"), from a decision of the Stark County Board of Revision ("BOR"). In that decision, the BOR determined the value of the subject real property for tax year 1997.

The notice of appeal and the corresponding statutory transcript certified to this Board set forth that the subject real

property is located in Stark County, and is identified in the County Auditor's tax records as parcel number 01-13663.

Pursuant to the applicable provisions of R.C. 5717.01, the Stark County Auditor certified a "transcript on appeal" to this Board of the prior proceedings before the BOR, together with all material considered thereby. (S.T.)

A "motion to dismiss and memorandum" was filed by MRSLV, contending that the complaint filed by the Alliance City Schools ("BOE") with the BOR was defective, and requesting that this Board order the BOR to dismiss the complaint filed before it. The motion reads as follows:

"Appellant, MRSLV Alliance LLC., hereby requests the Ohio Board of Tax Appeals to issue an ORDER directing the Stark County Auditor and Stark County Board of Revision to dismiss the complaint filed with the Board of Revision by "Alliance City Schools" and to list the real property involved in this appeal at its original valuation as determined by the Stark County Auditor for the tax year 1997. Appellant claims that the original complaint was jurisdictionally defective in that the named "complainant" was "Alliance City Schools". Attached hereto and incorporated herein is a Memorandum of Appellant in support of this Motion."

No response was filed on behalf of the BOE, or the BOR.

The complainant listed on the complaint filed with the BOR is identified as "Alliance City Schools". The motion to dismiss contends that the correct name of the complainant is "Alliance City Schools Board of Education". The motion cites Pennington v. Fairfield Cty. Bd. of Revision, et al. (Dec. 21,

1992), (5th Dist 1992), Fairfield App. No. 24-C-92, Ohio App. LEXIS 6686. There, attorneys for the Board of Education of the Lancaster City Schools filed a complaint with the BOR, indicating the complainant to be "Lancaster City Schools." The BOR's decision was appealed to the Court of Common Pleas who determined the complaint "was not properly brought in the name of the Board of Education of the Lancaster City School District." Upon appeal the Fifth District Court of Appeals affirmed this decision. Although the instant matter is factually similar to Pennington, it was determined in a different county from which the instant matter was appealed. This Board declines to follow Pennington in this matter, relying instead upon our decision in Pickerington, discussed later in this decision.

MRSLV also cites Board of Education of the Delaware City Schools v. Delaware Cty. Bd. of Revision (June 21, 1996), Case Nos. 95-A-1093, 95-A-1202, unreported. In these cases, both the countercomplaint and notice of appeal filed with this Board identified the party as "Board of Education of the Delaware City Schools", whereas the real party in interest was the "Board of Education of the Olentangy Local School District." We found therefore that the countercomplaint was never properly before the BOR, and this Board had no jurisdiction to consider the appeal. However, such case is clearly distinguishable from the instant matter because here the school district in which the property is situated was correctly identified. The claimed error is that the proper party, the "board of education," was omitted on the

complaint which was prepared and filed by the city law director. We find that there was substantial compliance with core jurisdictional requirements. CEI v. Lake Cty. Bd. of Revision (1998) 80 Ohio St.3d 591.

In Pickerington Local School District Bd. of Ed. v. Fairfield Cty. Bd. of Revision, B.T.A. Case No. 92-B-776, unreported, we held that the name "Pickerington Local School District" on the complaint form was adequate to make them a party before the BOR. We find this case should be followed in resolving the instant matter. There has been no representation that there was any confusion by any party. The documentation in the statutory transcript indicates that the board of revision was clear as to who filed the complaint. The board of revision referred to the complainant as "Alliance City School Board" and "Alliance City Schools." Furthermore, there is no representation or evidence that any parties rights were prejudiced.

The motion to dismiss is therefore denied.