

**OHIO BOARD OF TAX APPEALS**

|   |   |                             |
|---|---|-----------------------------|
| Oak Hills Local School District Board of Education,   | ) |                             |
|   | ) |                             |
|   | ) | CASE NO. 98-S-1174          |
| Appellant,  | ) |                             |
|   | ) | (REAL PROPERTY TAX)         |
| vs.   | ) |                             |
|   | ) | ORDER                       |
| Hamilton County Board of Revision,                    | ) |                             |
| Hamilton County Auditor and Cincinnati Odonnett, LLC, | ) | (Denying Motion to Dismiss) |
|   | ) |                             |
| Appellees.  | ) |                             |

**APPEARANCES:**

For the Appellant

-David C. DiMuzio  
Wood & Lamping  
600 Vine Street  
Suite 2500  
Cincinnati, Ohio 45202-2409

For the County Appellees

-Michael K. Allen  
Hamilton County Prosecuting Attorney  
By: Thomas Scheve  
Assistant Prosecuting Attorney  
Court Administration Building  
Cincinnati, Ohio 45202

For Cincinnati Odonnett, LLC

-Thomas J. Byrne  
Richard W. Cline  
Hahn, Loeser & Parks LLP  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215

Entered March 5, 1999

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

This matter is before the Board of Tax Appeals pursuant to a notice of appeal filed herein on behalf of appellant. The appeal is taken from a decision of the Hamilton County Board of Revision (BOR) which determined the value of the subject property for tax year 1997.

On January 19, 1999, counsel for the appellant Board of Education (BOE) filed a motion to dismiss the underlying complaint in this matter. In this motion, the BOE contends the BOR lacked subject matter jurisdiction over the subject complaint under the authority of Muirfield Assn. , Inc. v. Franklin Cty. Bd. of Revision (1995), 73 Ohio St.3d 710. The appellee property owner filed a memorandum contra to this motion to dismiss on January 28, 1999 and the BOE filed a reply memorandum on February 9, 1999. Accordingly, this matter is submitted upon the notice of appeal, the statutory transcript certified by the Auditor pursuant to R.C. 5717.01, the motion to dismiss and the memoranda filed by the parties.

The record establishes that the appellee property owner filed a complaint with the Hamilton County Board of Revision on March 31, 1998 on parcel number 550-0181-0001-00 (parcel 00), with a street address of 5700 Harrison Avenue, Dent, Ohio. On May 6, 1998, the BOE filed a corresponding counter-complaint. However, in addition to parcel 00, the BOE also listed parcel number 550-0181-0001-90 (parcel 90) on its counter-complaint. A hearing was held before the BOR on October 13, 1998. On October 15, 1998, the BOR issued decisions determining the value of both parcels 00 and 90. The BOE appealed the BOR's decision determining the value of parcel 00 and it is this appeal involved herein.

In the memorandum in support of its motion to dismiss, the appellant challenges the sufficiency of the decrease complaint filed on behalf of the property owner to confer jurisdiction on the BOR. Specifically, the appellant sets forth the following:

“\*\*\* the tax complaint filed by Cinci Odonnett listed only a portion of the fee simple, but not the entire property. The Ohio Supreme Court, in Muirfield,

supra, declared that the Board of Revision lacks subject matter jurisdiction to review less than the entire fee simple. \*\*\*

“The underlying complaint filed by Cincinnati Odonnett did not invoke the subject matter jurisdiction of the Board of Revision and must therefore be dismissed, and the decision of the BOR rescinded.”

Accordingly, the threshold issue we must address is whether the decrease complaint filed on behalf of the property owner sufficiently identified the property complained of, thereby invoking the jurisdiction of the BOR to consider the complaint. For the reasons set forth below, we find that it does, and therefore, we find appellant’s motion to dismiss must be denied.

R.C. 5715.19 and R.C. 5739.13 set forth the jurisdictional requirements for filing decrease complaints with the BOR. In interpreting these statutes, the Ohio Supreme Court has identified certain core jurisdictional requirements that must be satisfied to invoke the jurisdiction of the BOR. In Stanjim Co. v. Mahoning Cty. Bd. of Revision (1974), 38 Ohio St.2d 233, the Court found a complaint lacking certain information requested on the complaint form to be insufficient to confer jurisdiction on the BOR. In that case, the taxpayer left a large portion of the complaint form entitled “pertinent facts” blank stating that “data substantiating this complaint of over valuation will be presented at the requested hearing.”

Subsequently, in Griffith v. Bd. of Revision (1975), 44 Ohio St.2d 225, the Court affirmed the dismissal of a complaint, large portions of which had been left blank. The Court again concluded that the minimal information sought on the complaint form reflected the requirements imposed by statute and better-enabled county boards of revision to perform the duties with which they had been charged by the General Assembly.

Thereafter, in Nucorp, Inc. v. Bd. of Revision (1980), 64 Ohio St.2d 20, the Court made it clear that the application of its prior decisions should be limited to

only those circumstances where a complainant has failed to comply with the jurisdictional requirements which are a prerequisite for vesting jurisdiction in a county board of revision. For example, the Court concluded that a requirement that certain additional information be provided no later than forty-five days after the last date for filing complaints constituted a procedural requirement, which, if not complied with, would not deprive a complainant of a review of the complaint on the merits.

More recently, in Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision (1998), 80 Ohio St.3d 591, the Court held that complaints should be dismissed for want of jurisdiction only when an omission goes to the “core of procedural efficiency.” Specifically, the Court stated:

“The determination of a claim is to be made in an efficient manner. The statute is clear on the earmarks of that efficiency – a filing by March 31, a statement of whether the claimed valuation is at least \$17,500, notice to the school boards if the amount is at least \$17,500, a thirty-day response time by the objecting party, and ninety-day time limit to determine the claim. This Court has also determined that the questions on the Stanjim form also go to the core of procedural efficiency; \*\*\*.”

Applying the above standards to the case currently before this Board, we find the complainant/property owner sufficiently identified the property complained of to invoke the jurisdiction of the BOR. A review of the complaint indicates that the property owner listed the property by parcel number (listing parcel 00) and street address. The BOR apparently was able to identify the property and proceeded to determine the value of the property.

As set forth above, the BOE relies upon the Court’s announcement in Muirfield as support for its contention that the appellee/property owner’s complaint failed to invoke the jurisdiction of the BOR. We find Muirfield has no

precedential value herein as that case concerned the issue of valuation of property rather than questions involving core jurisdiction.

While we do recognize there may well be an additional “parcel” which should have been included on the complaint in order for this Board to determine the value of the entire “economic unit,” as required by Park Ridge Co. v. Franklin Cty. Bd. of Revision (1987), 29 Ohio St.3d 12, we are unable to determine from the record, as it currently exists, what this additional “parcel” represents. At the hearing before the BOR, the Auditor’s representative indicated that there was an additional subparcel with a \$0.00 value. This subparcel may represent a separate estate that must be valued in conjunction with the subject property. If, at the evidentiary hearing before this Board, the evidence shows that this is the case, counsel for the BOE may renew his objection at that time.

As set forth above, a county board of revision is to value parcels upon complaint, unless there is a statutorily authorized reason not to. Here, no such reason has been shown. Based upon the foregoing, the Board of Tax Appeals finds that the BOR had jurisdiction over the complaint filed in the matter and further that this Board has jurisdiction over the appeal from the BOR’s decision and determination of value. It is therefore ordered that the motion of the BOE must be, and hereby is denied. It is further ordered that this appeal be scheduled for an evidentiary hearing to determine the value of the subject property.