ORIGINAL

IN THE SUPREME COURT
STATE OF OHIO
APPEAL FROM THE BOARD OF TAX APPEALS

Board of Education of the Groveport Madison Local Schools, Appellee, v. Franklin County Board of Revision, Franklin County Auditor and the Tax Commissioner of the State of Ohio, Appellees, and Public Storage/Public Storage Business Trust (Successor to Hamilton-33 Partnership and John W. Messmore, Tr.), Appellant.	)	SUPREME COURT CASE NUMBER: 2012-1476 BOARD OF TAX APPEALS CASE NO. 2010-A-1290

BRIEF OF APPELLANT

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RECEIVED
NOV 13 2012
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
NOV 13 2012
CLERK OF COURT
SUPREME COURT OF OHIO

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STATEMENT OF THE CASE

This case comes to the Court from a decision and order of the Ohio Board of Tax Appeals under Revised Code Section 5717.04. A complaint for the tax year 2008 was filed by the predecessor to the Appellant, Public Storage/Public Storage Business Trust (Successor to Hamilton-33 Partnership and John W. Messmore, Tr.), in connection with the commercial property that is the subject of this appeal. Supplement to the Briefs (hereinafter Supp.) at page 1. A counter-complaint was filed by the Appellee Board Education of the Groveport Madison Local Schools wherein they requested that the County Auditor's value of $2,167,100 fair market value be maintained. Supp. at page 2. The basis for the complaint was an appraisal of the property with a value of $1,600,000. Supp. at pages 5 and 6. The Franklin County Board of Revision reduced the 2008 tax year assessment based on the appraisal. Supp. at page 3. The Appellee Board of Education of the Groveport Madison Local Schools appealed the Board of Revision decision to the Oho Board of Tax Appeals.

When this matter came on for hearing before the Ohio Board of Tax Appeals the Appellee Board of Education moved to remand the case to the Board of Revision with instructions to dismiss the complaint because it was not filed in the name of the entity holding legal title at the time the complaint was filed. The Appellant opposed the motion since the complaint was filed by one of the owner's of the entity that held legal title to the property, who also owned other real property in the County. The Board of Tax Appeals held that this fact related to standing and not jurisdiction (Board of Tax Appeals decision and order at page 4) and remanded the case to the Board of Revision with instructions to dismiss the original complaint

filed on behalf of the property owner for lack of jurisdiction. See Board of Tax Appeals decision and order at page 5.

The Appellant appeals the Board of Tax Appeals decision and order to this Court because it is unreasonable and unlawful.

LAW AND ARGUMENT

PROPOSITION OF LAW NO. 1

AN OWNER OF REAL PROPERTY IN A COUNTY FILES A JURISDICTIONALLY VALID COMPLAINT WHEN THAT OWNER HAS AN OWNERSHIP INTEREST IN THE PROPERPTY THAT IS THE SUBJECT OF THE COMPLAINT.

This proposition of law addresses the following assignments of error:

ASSIGNMENT OF ERROR NO. 1

The Board of Tax Appeals decision and order dismissing a complaint filed by an owner of the property is unreasonable and unlawful.

ASSIGNMENT OF ERROR NO. 2

The Board of Tax Appeals decision and order dismissing a complaint filed by an owner of the entity holding legal title to the property is unreasonable and unlawful.

ASSIGNMENT OF ERROR NO. 3

The Board of Tax Appeals decision and order finding that a complaint can only be filed by the entity holding legal title to real property is unreasonable and unlawful.

ASSIGNMENT OF ERROR NO. 4

The Board of Tax Appeals decision and order to dismiss the complaint on behalf of the property owner for lack of jurisdiction is unreasonable and unlawful.

This case was initiated by the filing of a complaint by the John W. Messmore Living Trust (hereinafter Trust). The Trust did not hold legal title to the property. However, the Trust did hold legal title to other real property in Franklin County at the time the complaint was filed. Supp. at pages 10-12. RC 5715.19 gives standing to "[a]ny person owning taxable real property in the county . . . " to file an assessment complaint on real property in the County. RC 5715.13 places an additional requirement that the complainant be a "party affected thereby . . .". The Record before the Board of Revision showed that the John W. Messmore Living Trust held an interest in the entity holding legal title to the property (Hamilton-33 Partnership) at the time the complaint was filed. Supp. at page 6. A reduction in the real property tax assessment would affect the ownership interest of the Trust in Hamilton-33 Partnership. As a result, the Trust met the requirements of RC 5715.19 and RC 5715.13. See *Society National Bank v. Board of Revision*, 81 Ohio St.3d 401, 1998-Ohio-436. The Board of Tax Appeals decision and order remanding the case to the Board of Revision with instructions to dismiss the complaint for lack of jurisdiction is unreasonable and unlawful. The decision and order is contrary to RC 5715.13, RC 5715.19 and the Court's decision in *Society National Bank.*

CONCLUSION

For the foregoing reasons, the Appellant Public Storage/Public Storage Business Trust (Successor to Hamilton-33 Partnership and John W. Messmore, Tr.), respectfully requests that this Court reverse the decision and order of the Ohio Board of Tax Appeals and remand the case to the Ohio Board of Tax Appeals with instructions to find the fair market value or true value in

money of the subject real property to be $1,600,000 as of January 1, 2008, for a corresponding taxable value, utilizing a 35% common level of assessment of $560,000, carried forward according to law. This was the determination made by the Board of Revision below. No evidence or argument has been submitted in this case to contradict this result.

Respectfully submitted,

Todd W. Sleggs (0040921)
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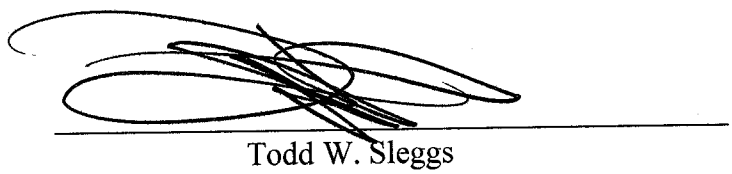
PUBLIC STORAGE/PUBLIC STORAGE
BUSINESS TRUST (SUCCESSOR TO
HAMILTON-33 PARTNERSHIP AND JOHN W.
MESSMORE, TR.)

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Brief of Appellant was mailed via regular U.S. mail, postage prepaid, to William J. Stehle, Esq., Assistant Prosecuting Attorney, 373 S. High Street, 20th Floor, Columbus, OH 43215, attorney for Appellees, Franklin County Board of Revision and Franklin County Auditor; Mark H. Gillis, Esq., Rich & Gillis Law Group, LLC, Attorney for Appellee Board of Education of the Groveport Madison Local School District; and Mike DeWine, Ohio Attorney General, State Office Tower, 17th Floor, 30 East Broad Street, Columbus, Ohio 43215-3428, Attorney for Appellee Tax Commissioner of the State of Ohio on this 12 day of November, 2012.



Todd W. Sleggs

ORIGINAL

IN THE SUPREME COURT
STATE OF OHIO
APPEAL FROM THE BOARD OF TAX APPEALS

12-147

Board of Education of the Groveport Madison Local School District, Appellee, v. Franklin County Board of Revision, Franklin County Auditor and the Tax Commissioner of the State of Ohio, Appellees, and Public Storage/Public Storage Business Trust (Successor to Hamilton-33 Partnership and John W. Messmore, Tr.), Appellant.	)	SUPREME COURT CASE NUMBER:_____ BOARD OF TAX APPEALS CASE NO. 2010-A-1290

FILED
AUG 29 2012
CLERK OF COURT
SUPREME COURT OF OHIO

NOTICE OF APPEAL

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Attorney for Appellant Public Storage/Public Storage Business Trust (Successor to Hamilton-33 Partnership and John W. Messmore, Tr.)

IN THE SUPREME COURT
STATE OF OHIO
APPEAL FROM THE BOARD OF TAX APPEALS

Board of Education of the Groveport Madison Local School District, Appellee, v. Franklin County Board of Revision, Franklin County Auditor and the Tax Commissioner of the State of Ohio, Appellees, and Public Storage/Public Storage Business Trust (Successor to Hamilton-33 Partnership and John W. Messmore, Tr.), Appellant.	)	SUPREME COURT CASE NUMBER:_____ BOARD OF TAX APPEALS CASE NO. 2010-A-1290 NOTICE OF APPEAL TO THE SUPREME COURT OF OHIO PURSUANT TO SECTION 5717.04 REVISED CODE

The Appellant, Public Storage/Public Storage Business Trust (Successor to Hamilton-33 Partnership and John W. Messmore, Tr.), by and through counsel, hereby gives notice of its appeal to the Supreme Court of The State of Ohio, from a Decision and Order of the Ohio Board of Tax Appeals, rendered on the 31st day of July, 2012, a copy of which is attached hereto as "Exhibit A" and which is incorporated herein as though fully rewritten in this Notice of Appeal.

The Errors complained of are attached hereto as "Exhibit B", which is incorporated herein by reference.

Respectfully submitted,

SLEGGS, DANZINGER & GILL, CO., LPA

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ATTORNEYS FOR APPELLANT
PUBLIC STORAGE/PUBLIC STORAGE
BUSINESS TRUST (SUCCESSOR TO
HAMILTON-33 PARTNERSHIP AND JOHN W.
MESSMORE, TR.)

OHIO BOARD OF TAX APPEALS

Board of Education of the Groveport Madison Local Schools,	)	
	)	CASE NO. 2010-A-1290
Appellant,	)	
	)	
vs.	)	(REAL PROPERTY TAX)
	)	
Franklin County Board of Revision, Franklin County Auditor, and John W. Messmore, Tr.,	)	DECISION AND ORDER
	)	AUG 0 2 2012
Appellees.		

APPEARANCES:

For the Appellant - Rich & Gillis Law Group, LLC
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6400 Riverside Drive, Suite D
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For the County Appellees - Ron O'Brien
Franklin County Prosecuting Attorney
Paul Stickel
Assistant Prosecuting Attorney
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For the Appellee Property Owner - James K. Hunter, III
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Todd W. Sleggs
820 West Superior Avenue, 7th Floor
Cleveland, Ohio 44113

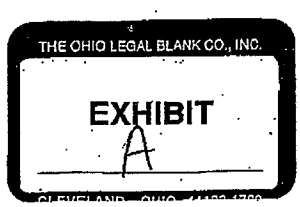
JUL 3 1 2012

Entered

Ms. Margulies, Mr. Johrendt, and Mr. Williamson concur.

---

[1] Title to the subject property was transferred following the filing of the original complaint and/or notice of appeal, and accordingly notice of this decision is being issued to the current property owner's counsel, in accordance with R.C. 5717.03(B). See *Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision,* 114 Ohio St.3d 1224, 2007-Ohio-4007.



This cause and matter came on to be considered by the Board of Tax Appeals upon a motion to remand with instructions to dismiss the underlying complaint filed by the appellant ("BOE"). This matter has been submitted upon the BOE's motion and memorandum in support, the appellee property owner's (current) response, and the BOE's response thereto.

The BOE contends that the original decrease complaint filed by the property owner with the BOR did not vest jurisdiction because "[a]s of the date the tax year 2008 Complaint was filed with the BOR, the legal title holder of the Subject Property was Hamilton-33 Partnership. However, Hamilton-33 Partnership is not identified as the property owner on line one or elsewhere on the face of the original tax year 2008 Complaint." Motion at 3.

The statutory transcript certified to this board by the Franklin County Board of Revision includes a copy of the original decrease complaint filed on March 31, 2009, with the Franklin County Board of Revision. S.T., Ex. 1. On line 1 of such complaint, John W. Messmore Living Trust is listed as the owner of the subject property. In addition, the complaint is signed by James Hunter, attorney for the owner, who is also listed as the complainant's agent on line 3 of the complaint. The transcript also includes the county property record card which lists Hamilton-33 Partnership as the owner, S.T., Ex. 5, as well as an appraisal of the subject prepared for the owner's use which lists Hamilton-33 Partnership as the owner of the subject property. S.T., Ex. 6A at 9.

Courts have held that for a complaint to be valid, it must include all information that goes to the core of procedural efficiency. *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision* (1998), 80 Ohio St.3d 591; *Trotwood-Madison City School Dist. v. Montgomery Cty. Bd. of Revision* (June 30, 1997), BTA No. 1995-S-1282, unreported; *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Dec. 18, 1998), BTA No. 1998-J-481, unreported, reversed on other grounds, (2000), 87 Ohio St.3d 363; *Ritz Carlton Hotel Partnership v. Cuyahoga Cty. Bd. of Revision* (May 11, 2001), BTA No. 1998-L-355, unreported. Further, a complaint must name at least one owner of the property on the complaint form in order to satisfy the core jurisdictional requirements. *City of Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Jan. 22, 1999), BTA No. 1998-L-138, unreported; *Trotwood-Madison City School Dist.*, supra; *Cedar Heights Co. v. Cuyahoga Cty. Bd. of Revision* (July 20, 2001), BTA Nos. 2000-J-1714, et al., unreported. In *Gilman v. Hamilton Cty. Bd. of Revision*, 127 Ohio St.3d 154, 2010-Ohio-4992, the Supreme Court held that "in cases that address issues of real property taxation, we have construed 'owner' narrowly to encompass only the legal-title holder and not the holder of an equitable interest in the property. See *Performing Arts School of Metro. Toledo, Inc. v. Wilkins*, 104 Ohio St.3d 284, 2004-Ohio-6389; *Victoria Plaza Ltd. Liab. Co. v. Cuyahoga Cty. Bd. of Revision* (1999), 86 Ohio St.3d 181, 183, 1999-Ohio-148." Id. at ¶16. "[I]n *Bloom v. Wides* (1955), 164 Ohio St. 138, 141, *** the court stated, 'where the term "owner" is employed with reference to land or

buildings, it is commonly understood to mean the person who holds the legal title.'" *Victoria Plaza*, supra at 183.

This board must determine whether the legal titleholder of the subject property was properly identified on line 1 of the original decrease complaint at the time it was filed with the BOR. Through its response to the motion to remand, the current owner attempts to argue that the subject complaint invoked the jurisdiction of the board of revision because John W. Messmore Living Trust owned other real property in Franklin County at the time the complaint was filed and John W. Messmore Living Trust held an interest "in the entity holding legal title to the property (Hamilton-33 Partnership)." Response at 1-2. Such arguments relate to the standing of the entity filing the complaint and have no bearing on whether the property owner, as listed on line 1 of the complaint, was proper. Regardless of the foregoing, according to the record before us, at the time the complaint was filed, the property was not titled in the name of John W. Messmore Living Trust.

Thus, considering the instant facts, we conclude that since the official county records reflect that Hamilton-33 Partnership held title to the subject property at the time the complaint was filed, which the current owner does not dispute, John W. Messmore Living Trust did not have legal title to the subject property at the time of the filing of the subject complaint, and, as such, it was not properly listed as the property owner on line 1 of the complaint.

It is the decision and order of the Board of Tax Appeals that this matter be remanded to the Franklin County Board of Revision with instructions to dismiss the original complaint filed on behalf of the property owner for lack of jurisdiction.

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.

Sally F. Van Meter

Sally F. Van Meter, Board Secretary

EXHIBIT "B"

ASSIGNMENT OF ERRORS

ASSIGNMENT OF ERROR NO. 1

The Board of Tax Appeals decision and order dismissing a complaint filed by an owner of the property is unreasonable and unlawful.

ASSIGNMENT OF ERROR NO. 2

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This is to certify that a copy of the foregoing NOTICE OF APPEAL was mailed via Certified United States Mail, postage prepaid, to William J. Stehle, Esq., Assistant Prosecuting Attorney, 373 S. High Street, 20th Floor, Columbus, OH 43215, attorney for Appellees, Franklin County Board of Revision and Franklin County Auditor; Karol C. Fox, Esq., Rich & Gillis Law Group, LLC, Attorney for Appellee Board of Education of the Groveport Madison Local School District; and Mike DeWine, Ohio Attorney General, State Office Tower, 17th Floor, 30 East Broad Street, Columbus, Ohio 43215-3428, Attorney for Appellee Tax Commissioner of the State of Ohio on this 28th day of August, 2012.

Todd W. Sleggs

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OHIO BOARD OF TAX APPEALS

Board of Education of the Groveport Madison Local Schools,	)	
	)	CASE NO. 2010-A-1290
Appellant,	)	
	)	
vs.	)	(REAL PROPERTY TAX)
	)	
Franklin County Board of Revision, Franklin County Auditor, and John W. Messmore, Tr.,	)	DECISION AND ORDER
	)	AUG 0 2 2012
Appellees.		

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For the Appellant - Rich & Gillis Law Group, LLC
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Dublin, Ohio 43017

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Assistant Prosecuting Attorney
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Attorney at Law
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Todd W. Sleggs
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JUL 3 1 2012

Entered

Ms. Margulies, Mr. Johrendt, and Mr. Williamson concur.

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This board must determine whether the legal titleholder of the subject property was properly identified on line 1 of the original decrease complaint at the time it was filed with the BOR. Through its response to the motion to remand, the current owner attempts to argue that the subject complaint invoked the jurisdiction of the board of revision because John W. Messmore Living Trust owned other real property in Franklin County at the time the complaint was filed and John W. Messmore Living Trust held an interest "in the entity holding legal title to the property (Hamilton-33 Partnership)." Response at 1-2. Such arguments relate to the standing of the entity filing the complaint and have no bearing on whether the property owner, as listed on line 1 of the complaint, was proper. Regardless of the foregoing, according to the record before us, at the time the complaint was filed, the property was not titled in the name of John W. Messmore Living Trust.

Thus, considering the instant facts, we conclude that since the official county records reflect that Hamilton-33 Partnership held title to the subject property at the time the complaint was filed, which the current owner does not dispute, John W. Messmore Living Trust did not have legal title to the subject property at the time of the filing of the subject complaint, and, as such, it was not properly listed as the property owner on line 1 of the complaint.

It is the decision and order of the Board of Tax Appeals that this matter be remanded to the Franklin County Board of Revision with instructions to dismiss the original complaint filed on behalf of the property owner for lack of jurisdiction.

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.

Sally F. Van Meter

Sally F. Van Meter, Board Secretary

Board of Revision

Franklin County • Ohio

John O'Grady
Commissioner

Edward J. Leonard
Treasurer

Clarence E. Mingo II
Auditor

Victoria K. Anthony
Clerk

MAY 27, 2010
JUN - 9 2010

JOHN MESSMORE TR
3540 LA ROCHELLE DR
COLUMBUS, OH 43221

Complaint No: BOR 08-6022 A&B
Parcel: 185-000877
Hearing Date: MARCH 11, 2010

After Consideration of the above Complaint, it is the decision of the Board of Revision that a decrease of valuation in the amount of $567,100 is warranted. This change is effective as of tax lien date JANUARY 1, 2008 and carried forward.

The property's new fair market value is $1,600,000. The new taxable value is 35% or $560,000.

You may appeal this decision by filing the proper notice of appeal with either the Ohio Board of Tax Appeals, (O.R.C. 5717.01), or with the Court of Common Pleas, (O.R.C. 5717.05). Such appeals must be filed within 30 days after the mailing of this notice.

Please call (614) 462-3913 if we can be of further assistance.

Sincerely,

Victoria K. Anthony

Victoria K. Anthony, Clerk
Franklin County Board of Revision

VKA/bn
CC: JEFFREY A. RICH, ESQ.
JAMES HUNTER

REFUND POLICY

To ensure the accuracy of all refunds, the Board of Revision REQUIRES a copy of the cancelled check(s) for each tax year collection period under property that transferred during or after the tax year under appeal.

373 S. High Street • Columbus, Ohio 43215-6310 • (614) 462-3913 • FAX (614) 462-6252

Ohio Statutes
Title 57. TAXATION
Chapter 5715. BOARDS OF REVISION; EQUALIZATION OF ASSESSMENTS

Includes all legislation filed with the Secretary of State's Office through 7/2/2012

§ 5715.13. *[Effective Until 9/28/2012]* Application for decrease in valuation; electronic complaint and application

(A) Except as provided in division (B) of this section, the county board of revision shall not decrease any valuation unless a party affected thereby or who is authorized to file a complaint under section 5715.19 of the Revised Code makes and files with the board a written application therefor, verified by oath, showing the facts upon which it is claimed such decrease should be made.

(B) The county board of revision may authorize a policy for the filing of an electronic complaint under section 5715.19 of the Revised Code and the filing of an electronic application therefor under this section, subject to the approval of the tax commissioner. An electronic complaint need not be sworn to, but shall contain an electronic verification and shall be subscribed to by the person filing the complaint: "I declare under penalties of perjury that this complaint has been examined by me and to the best of my knowledge and belief is true, correct, and complete."

Cite as R.C. § 5715.13

History. Amended by 129th General Assembly File No. 64, HB 225, §1, eff. 3/22/2012.

Effective Date: 03-30-1999

Note: *This section is set out twice. See also § 5715.13, as amended by 129th General Assembly File No. 141, HB 509, §1, eff. 9/28/2012.*

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Ohio Statutes
Title 57. TAXATION
Chapter 5715. BOARDS OF REVISION; EQUALIZATION OF ASSESSMENTS

Includes all legislation filed with the Secretary of State's Office through 7/2/2012

§ 5715.19. *[Effective Until 9/28/2012]* Complaint against valuation or assessment - determination of complaint - tender of tax - determination of common level of assessment

(A) As used in this section, "member" has the same meaning as in section 1705.01 of the Revised Code.

(1) Subject to division (A)(2) of this section, a complaint against any of the following determinations for the current tax year shall be filed with the county auditor on or before the thirty-first day of March of the ensuing tax year or the date of closing of the collection for the first half of real and public utility property taxes for the current tax year, whichever is later:

(a) Any classification made under section 5713.041 of the Revised Code;

(b) Any determination made under section 5713.32 or 5713.35 of the Revised Code;

(c) Any recoupment charge levied under section 5713.35 of the Revised Code;

(d) The determination of the total valuation or assessment of any parcel that appears on the tax list, except parcels assessed by the tax commissioner pursuant to section 5727.06 of the Revised Code;

(e) The determination of the total valuation of any parcel that appears on the agricultural land tax list, except parcels assessed by the tax commissioner pursuant to section 5727.06 of the Revised Code;

(f) Any determination made under division (A) of section 319.302 of the Revised Code.

Any person owning taxable real property in the county or in a taxing district with territory in the county; such a person's spouse; an individual who is retained by such a person and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code, a general or residential real estate appraiser licensed or certified under Chapter 4763. of the Revised Code, or a real estate broker licensed under Chapter 4735. of the Revised Code, who is retained by such a person; if the person is a firm, company, association, partnership, limited liability company, or corporation, an officer, a salaried employee, a partner, or a member of that person; if the person is a trust, a trustee of the trust; the board of county commissioners; the prosecuting attorney or treasurer of the county; the board of township trustees of any township with territory within the county; the board of education of any school district with any territory in the county; or the mayor or legislative authority of any municipal corporation with any territory in the county may file such a complaint regarding any such determination affecting any real property in the county, except that a person owning taxable real property in another county may file such a complaint only with regard to any such determination affecting real property in the county that is located in the same taxing district as that person's real property is located. The county auditor shall present to the county board of revision all complaints filed with the auditor.

(2) As used in division (A)(2) of this section, "interim period" means, for each county, the tax year to which section 5715.24 of the Revised Code applies and each subsequent tax year until the tax year in which that section applies again.

No person, board, or officer shall file a complaint against the valuation or assessment 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.

(3) 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.

(B) Within thirty days after the last date such complaints may be filed, the auditor shall give notice of each complaint in which the stated amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect determination is at least seventeen thousand five hundred dollars to each property owner whose property is the subject of the complaint, if the complaint was not filed by the owner or the owner's spouse, and to each board of education whose school district may be affected by the complaint. Within thirty days after receiving such notice, a board of education; a property owner; the owner's spouse; an individual who is retained by such an owner and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code, a general or residential real estate appraiser licensed or certified under Chapter 4763. of the Revised Code, or a real estate broker licensed under Chapter 4735. of the Revised Code, who is retained by such a person; or, if the property owner is a firm, company, association, partnership, limited liability company, corporation, or trust, an officer, a salaried employee, a partner, a member, or trustee of that property owner, may file a complaint in support of or objecting to the amount of alleged overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect determination stated in a previously filed complaint or objecting to the current valuation. Upon the filing of a complaint under this division, the board of education or the property owner shall be made a party to the action.

(C) Each board of revision shall notify any complainant and also the property owner, if the property owner's address is known, when a complaint is filed by one other than the property owner, by certified mail, not less than ten days prior to the hearing, of the time and place the same will be heard. The board of revision shall hear and render its decision on a complaint within ninety days after the filing thereof with the board, except that if a complaint is filed within thirty days after receiving notice from the auditor as provided in division (B) of this section, the board shall hear and render its decision within ninety days after such filing.

(D) The determination of any such complaint shall relate back to the date when the lien for taxes or recoupment charges for the current year attached or the date as of which liability for such year was determined. Liability for taxes and recoupment charges for such year and each succeeding year until the complaint is finally determined and for any penalty and interest for nonpayment thereof within the time required by law shall be based upon the determination, valuation, or assessment as finally determined. Each complaint shall state the amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect classification or determination upon which the complaint is based. The treasurer shall accept any amount tendered as taxes or recoupment charge upon property concerning which a complaint is then pending, computed upon the claimed valuation as set forth in the complaint. If a complaint filed under this section for the current year is not determined by the board within the time prescribed for such determination, the complaint and any proceedings in relation thereto shall be continued by the board as a valid complaint for any ensuing year until such complaint is finally determined by the board or upon any appeal from a decision of the board. In such case, the original complaint shall continue in effect without further filing by the original taxpayer, the original taxpayer's assignee, or any other person or entity authorized to file a complaint under this section.

(E) If a taxpayer files a complaint as to the classification, valuation, assessment, or any determination affecting the taxpayer's own property and tenders less than the full amount of taxes or recoupment charges as finally determined, an interest charge shall accrue as follows:

(1) If the amount finally determined is less than the amount billed but more than the amount tendered, the taxpayer shall pay interest at the rate per annum prescribed by section 5703.47 of the Revised Code, computed from the date that the taxes were due on the difference between the amount finally determined and the amount tendered. This interest charge shall be in lieu of any penalty or interest charge under section 323.121 of the Revised Code unless the taxpayer failed to file a complaint and tender an amount as taxes or recoupment charges within the time required by this section, in which case section 323.121 of the Revised Code applies.

(2) If the amount of taxes finally determined is equal to or greater than the amount billed and more than the amount tendered, the taxpayer shall pay interest at the rate prescribed by section 5703.47 of the Revised Code from the date the taxes were due on the difference between the amount finally determined and the amount tendered, such interest to be in lieu of any interest charge but in addition to any penalty prescribed by section 323.121 of the Revised Code.

(F) Upon request of a complainant, the tax commissioner shall determine the common level of assessment of real property in the county for the year stated in the request that is not valued under section 5713.31 of the Revised Code, which common level of assessment shall be expressed as a percentage of true value and the common level of assessment of lands valued under such section, which common level of assessment shall also be expressed as a percentage of the current agricultural use value of such lands. Such determination shall be made on the basis of the most recent available sales ratio studies of the commissioner and such other factual data as the commissioner deems pertinent.

(G) A complainant shall provide to the board of revision all information or evidence within the complainant's knowledge or possession that affects the real property that is the subject of the complaint. A complainant who fails to provide such information or evidence is precluded from introducing it on appeal to the board of tax appeals or the court of common pleas, except that the board of tax appeals or court may admit and consider the evidence if the complainant shows good cause for the complainant's failure to provide the information or evidence to the board of revision.

(H) In case of the pendency of any proceeding in court based upon an alleged excessive, discriminatory, or illegal valuation or incorrect classification or determination, the taxpayer may tender to the treasurer an amount as taxes upon property computed upon the claimed valuation as set forth in the complaint to the court. The treasurer may accept the tender. If the tender is not accepted, no penalty shall be assessed because of the nonpayment of the full taxes assessed.

Cite as R.C. § 5715.19

History. Effective Date: 03-04-2002; 09-28-2006

Note: *This section is set out twice. See also § 5715.19, as amended by 129th General Assembly File No. 141, HB 509, §1, eff. 9/28/2012.*

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Ohio Statutes
Title 57. TAXATION
Chapter 5717. APPEALS

Includes all legislation filed with the Secretary of State's Office through 7/2/2012

§ 5717.04. Appeal from decision of board of tax appeals to supreme court - parties who may appeal - certification

The proceeding to obtain a reversal, vacation, or modification of a decision of the board of tax appeals shall be by appeal to the supreme court or the court of appeals for the county in which the property taxed is situate or in which the taxpayer resides. If the taxpayer is a corporation, then the proceeding to obtain such reversal, vacation, or modification shall be by appeal to the supreme court or to the court of appeals for the county in which the property taxed is situate, or the county of residence of the agent for service of process, tax notices, or demands, or the county in which the corporation has its principal place of business. In all other instances, the proceeding to obtain such reversal, vacation, or modification shall be by appeal to the court of appeals for Franklin county.

Appeals from decisions of the board determining appeals from decisions of county boards of revision may be instituted by any of the persons who were parties to the appeal before the board of tax appeals, by the person in whose name the property involved in the appeal is listed or sought to be listed, if such person was not a party to the appeal before the board of tax appeals, or by the county auditor of the county in which the property involved in the appeal is located.

Appeals from decisions of the board of tax appeals determining appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be instituted by any of the persons who were parties to the appeal or application before the board, by the person in whose name the property is listed or sought to be listed, if the decision appealed from determines the valuation or liability of property for taxation and if any such person was not a party to the appeal or application before the board, by the taxpayer or any other person to whom the decision of the board appealed from was by law required to be sent, by the director of budget and management if the revenue affected by the decision of the board appealed from would accrue primarily to the state treasury, by the county auditor of the county to the undivided general tax funds of which the revenues affected by the decision of the board appealed from would primarily accrue, or by the tax commissioner.

Appeals from decisions of the board upon all other appeals or applications filed with and determined by the board may be instituted by any of the persons who were parties to such appeal or application before the board, by any persons to whom the decision of the board appealed from was by law required to be sent, or by any other person to whom the board sent the decision appealed from, as authorized by section 5717.03 of the Revised Code.

Such appeals shall be taken within thirty days after the date of the entry of the decision of the board on the journal of its proceedings, as provided by such section, by the filing by appellant of a notice of appeal with the court to which the appeal is taken and the board. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within ten days of the date on which the first notice of appeal was filed or within the time otherwise prescribed in this section, whichever is later. A notice of appeal shall set forth the decision of the board appealed from and the errors therein complained of. Proof of the filing of such notice with the board shall be filed with the court to which the appeal is being taken. The court in which notice of appeal is first filed shall have exclusive jurisdiction of the appeal.

In all such appeals the tax commissioner or all persons to whom the decision of the board appealed from is required by such section to be sent, other than the appellant, shall be made appellees. Unless waived, notice of the appeal shall be served upon all appellees by certified mail. The prosecuting attorney shall represent the county auditor in any such appeal in which the auditor is a party.

The board, upon written demand filed by an appellant, shall within thirty days after the filing of such demand file with the court to which the appeal is being taken a certified transcript of the record of the proceedings of the board pertaining to the decision complained of and the evidence considered by the board in making such decision.

If upon hearing and consideration of such record and evidence the court decides that the decision of the board appealed from is reasonable and lawful it shall affirm the same, but if the court decides that such decision of the board is unreasonable or unlawful, the court shall reverse and vacate the decision or modify it and enter final judgment in accordance with such modification.

The clerk of the court shall certify the judgment of the court to the board, which shall certify such judgment to such public officials or take such other action in connection therewith as is required to give effect to the decision. The "taxpayer" includes any person required to return any property for taxation.

Any party to the appeal shall have the right to appeal from the judgment of the court of appeals on questions of law, as in other cases.

Cite as R.C. § 5717.04

History. Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 10-05-1987

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