

IN THE SUPREME COURT

STATE OF OHIO

APPEAL FROM THE BOARD OF TAX APPEALS

13-0293

JAMES NAVRATIL DEVELOPMENT)
COMPANY/JAMES NAVRATIL)
COMPANY,)

SUPREME COURT CASE)
NUMBER: _____)

Appellant,)

v.)

MEDINA COUNTY BOARD OF)
REVISION, MEDINA COUNTY)
AUDITOR, AND TAX)
COMMISSIONER OF THE STATE)
OF OHIO,)

BOARD OF TAX APPEALS)
CASE NO. 2010-A-3331)

Appellees.)

NOTICE OF APPEAL

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COMPANY/JAMES NAVRATIL COMPANY

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JAMES NAVRATIL DEVELOPMENT)
COMPANY/JAMES NAVRATIL)
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Appellant,)

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MEDINA COUNTY BOARD OF)
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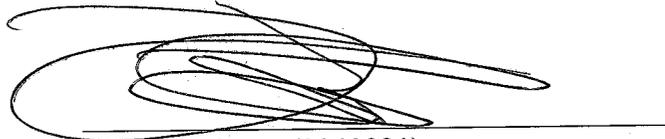
NOTICE OF APPEAL TO THE
SUPREME COURT OF OHIO
PURSUANT TO SECTION
5717.04 OF THE REVISED CODE

The Appellant James Navratil Development Company/James Navratil Company 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 15th day of January, 2013, 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,

SLEGG, DANZINGER & GILL, CO., LPA

A handwritten signature in black ink, appearing to be "Todd W. Sleggs", written over a horizontal line.

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JAMES NAVRATIL DEVELOPMENT COMPANY/

JAMES NAVRATIL COMPANY

OHIO BOARD OF TAX APPEALS

James Navratil Development Company,)

Appellant,)

vs.)

Medina County Board of Revision and)
Medina County Auditor,)

Appellees.)

CASE NO. 2010-A-3331

(REAL PROPERTY TAX)

DECISION AND ORDER

APPEARANCES:

For the Appellant -

James Navratil, pro se
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Sharon Center, Ohio 44274

For the County
Appellees -

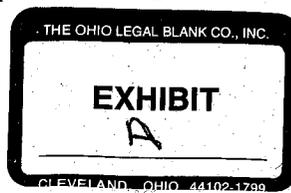
Dean Holman
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Medina, Ohio 44256

Entered **JAN 15 2013**

Mr. Williamson and Mr. Johrendt concur.

This cause and matter came on to be considered by the Board of Tax Appeals upon a motion to dismiss which has been construed as a motion to remand the instant appeal with instructions to dismiss the underlying complaint, filed by the county appellees ("county"). This matter has been submitted upon the motion. No response to the motion was filed by the appellant property owner.

The county's motion provides in pertinent part:



“*** this Board lacks jurisdiction over the instant appeal. Specifically, the name listed on Line #1 on DTE Form 1, Complaint Against the Valuation of Real Property, does not match the subject property owner’s name as Required by Ohio Revised Code §5715.19 and §5715.13.” Motion at 1.

The statutory transcript (“S.T.”) certified to this board by the Medina County Board of Revision includes a copy of the original decrease complaint filed on March 24, 2010, with the Medina County Board of Revision. S.T., Ex. A. On line 1 of such complaint, James Navratil Company is listed as the owner of the property. The property record card, also contained in the transcript, however, demonstrates that the subject was titled in the name of James Navratil Development Company. S.T., Ex. B.

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 defining the term "owner," the court, in *Victoria Plaza Ltd. Liab. Co. v. Cuyahoga Cty. Bd. of Revision* (1999), 86 Ohio St.3d 181, 183, reiterated that "in *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.'" In addition, "owner" has been defined as the owner at the time the complaint is filed. See *Public Square Tower One v. Cuyahoga Cty. Bd. of Revision* (1986), 34 Ohio App.3d 49; *City of Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Jan. 22, 1999), BTA No. 1998-L-138, unreported.

Requiring a complainant to correctly identify the owner on line 1 of a complaint serves two distinct and important purposes. First, it assists boards of revision in ensuring the statutorily required notice is given to the entity holding title to the property. While it may be asserted that such information is already in the possession of the auditor, this board has seen numerous instances arise in which a property owner has yet to record a change in title to property and the only manner by which a board of revision is placed on notice regarding the identity of the owner is through the disclosure made by the complainant. See, e.g., *Gammarino v. Hamilton Cty. Bd. of Revision* (Dec. 1, 1995), BTA No. 1995-S-356, unreported (holding that even though not filed with the county recorder, a limited warranty deed evidencing a conveyance of property is sufficient to prove ownership for purposes of allowing the filing with a county board of revision of a decrease complaint); *Women's Fed. Sav. &*

Loan v. Cuyahoga Cty. Bd. of Revision (Interim Order, June 9, 2006), BTA No. 2005-M-1501, unreported.

Second, accurately naming a property owner on line 1 of a complaint is also necessary for determining who the complainant is and whether such complainant has standing to file the complaint in question. In *Bd. of Edn. of the Mt. Vernon City Schools v. Knox Cty. Bd. of Revision* (Mar. 16, 2010), BTA No. 2009-K-2876, this board discussed the impact of such information:

“It is not the responsibility of a county board of revision to review materials and attempt to discern a complainant’s intent. Cf. *Columbia Toledo Corp. v. Lucas Cty. Bd. of Revision* (1996), 76 Ohio St.3d 361, 1996 Ohio 383, 667 N.E.2d 1180. The information elicited by the complaint form allows the county board of revision to determine who the owner and complainant are and, if these entities are different, whether notice of such filing must be issued pursuant to R.C. 5715.19(B). Appellant’s failure to accurately identify the owner, particularly when it must be inferred that the owner and complainant are identical, renders the present complaint deficient.” Id. at 4.

“[W]e have never adopted a ‘bright line’ test as to what constitutes a properly identified owner on a complaint, and have avoided raising jurisdictional barriers in instances of minor differences in an owner’s actual name versus the name listed on a complaint.” *Paul Grammas Family L.P. v. Clermont Cty. Bd. of Revision* (Interim Order, Feb. 27, 2004), BTA No. 2003-T-905, unreported, at 6. However, this board has also determined that some degree of specificity is required. See, e.g., *Lakeside Place, Inc. v. Cuyahoga Cty. Bd. of Revision* (Mar. 29, 2011), BTA Nos. 2008-K-2286, 2295, unreported; *Jacobs West St. Clair L.P. v. Cuyahoga Cty. Bd. of Revision* (Nov. 5, 2004), BTA No. 2003-T-609, unreported, wherein the board

decided that failure to properly identify the corporate ending in a corporate owner's name on line one of a real property tax complaint renders such complaint jurisdictionally invalid, as each ending contemplates a different legal entity.

Based upon the foregoing, we find the omission in the listing of the owner's name on the instant complaint to be more than minor; "James Navratil Company" did not own the subject property at the time the subject complaint was filed and, as such, it was not properly listed as the property owner on line 1 of such complaint. Accordingly, based upon the foregoing, the county's motion to remand the instant appeal to the Medina County Board of Revision with instructions to dismiss the underlying complaint is hereby granted.

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.



Jim Wilkinson, Chairperson

EXHIBIT "B"

ASSIGNMENT OF ERRORS

ASSIGNMENT OF ERROR NO. 1

The Board of Tax Appeals decision and order finding that the omission of "Development" in the name of a party runs to the core of procedural efficiency is unreasonable and unlawful.

ASSIGNMENT OF ERROR NO. 2

The Board of Tax Appeals decision and order is unreasonable and unlawful because the omission of "Development" in the name of the owner did not prevent the Board of Revision from carrying out its duties under R.C. 5715.

ASSIGNMENT OF ERROR NO. 3

The Board of Tax Appeals decision and order is inconsistent with the treatment of a similar error in Knickerbocker Properties Inc. XLII v. Delaware Cty. Bd. of Revision, 119 Ohio St.3d 233, 2008-Ohio-319 and is unreasonable and unlawful.

ASSIGNMENT OF ERROR NO. 4

The Board of Tax Appeals decision and order is not supported in the record. There is no evidence in the record to show that the error (omission of "Development" in the name of a party) impacted the Board of Revision's ability to proceed efficiently.

ASSIGNMENT OF ERROR NO. 5

The Board of Tax Appeals decision and order is unreasonable and unlawful because the omission of "Development" in the name of a party did not prejudice any party. It was a harmless error.

ASSIGNMENT OF ERROR NO. 6

The Board of Tax Appeals decision and order is unreasonable and unlawful because it is not consistent with its decisions in other cases involving similar facts.

ASSIGNMENT OF ERROR NO. 7

The Board of Tax Appeals decision and order is unreasonable and unlawful because it cites its own decisions as authority, neither a trial court opinion nor an administrative adjudication are *stare decisis*.

ASSIGNMENT OF ERROR NO. 8

The Board of Tax Appeals decision and order is unreasonable and unlawful because it violated the Appellant's right to a review of its property tax assessment and treated the Appellant different than the parties in similarly situated appeals.

ASSIGNMENT OF ERROR NO. 9

The Board of Tax Appeals decision and order, for the reasons in the Assignments of Error above, is a violation of Appellant's right to due process and as a result is unreasonable and unlawful.

ASSIGNMENT OF ERROR NO. 10

The Board of Tax Appeals decision and order, for the reasons in the Assignments of Error above, is a violation of Appellant's right to equal protection and as a result is unreasonable and unlawful

ASSIGNMENT OF ERROR NO. 11

The Board of Tax Appeals failure to find that it had jurisdiction in the appeal is unreasonable and unlawful.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing NOTICE OF APPEAL was mailed via Certified United States Mail, postage prepaid, to David J. Folk, Esq., Assistant Prosecuting Attorney, 72 Public Square, Medina, OH 44256, Attorney for Appellees, Medina County Board of Revision and Medina County Auditor; 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 13th day of February, 2013.



Todd W. Sleggs