

ORIGINAL

IN THE SUPREME COURT OF OHIO

JAMES NAVRATIL DEVELOPMENT., : CASE NO. 13-0293  
 COMPANY/ JAMES NAVRATIL COMPANY :  
 Appellant, : On Appeal from the Board of Tax Appeals,  
 : Case No. 2010-A-3331  
 v. :  
 :  
 MEDINA COUNTY BOARD OF REVISION :  
 AND THE MEDINA COUNTY AUDITOR :  
 :  
 :  
 Appellees. :

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MERIT BRIEF OF APPELLEES MEDINA COUNTY BOARD OF REVISION  
 AND MEDINA COUNTY AUDITOR

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## I. STATEMENT OF THE CASE

This case was originally filed with the Medina County Board of Revision (“BOR”) on March 24, 2010 (Appellant’s Supplement to the Brief “Supp.” p. 1). The subject properties consist of two parcels of vacant land, more fully identified as parcel numbers 33-12B-22-054 and 033-12B-22-055. *Id.* The BOR held a hearing on September 29, 2010 and issued its decision on that date. The BOR mailed its decision by certified mail to the Appellant as prescribed by Ohio Revised Code § 5715.20 on October 18, 2010 (Supp. at p.21). Thereafter, the Appellant filed its notice of appeal with the Ohio Board of Tax Appeals on November 12, 2010 (Supp. at p.26).

The Complaint Against the Valuation of Real Property form submitted by the Appellant indicates that the owner of the subject property is “James Navratil Company” (Supp. at p. 33). However, the owner of the subject property is actually “James Navratil **Development** Company,” (Supp. p. 39-44, 45). Appellees’ filed their Motion to Dismiss with the Board of Tax Appeals on November 2, 2012 which argued that the neither the Board of Revision nor the Board of Tax Appeals had jurisdiction to consider the complaint because the owner of the property was not identified on the Complaint as required by R.C. §5715.19 (Supp. at 27). The Board of Tax Appeals granted Appellee’s Motion to Dismiss on January 15, 2013, remanded the matter to the Medina County Board of Revision with instructions to dismiss the complaint (Appendix at p. 17). Appellant filed its Notice of Appeal with this Court on February 14, 2013 (Appendix at p.1).

## II. LAW AND ARGUMENT

### A. Appellee's Reply to Appellant's Proposition of Law No. 1

#### *Proposition of Law No. 1*

*An owner of real property in a county file a jurisdictionally valid complaint when that owner has ownership interest in the property that is subject of the complaint.*

Appellees' argument relating to the Board of Tax Appeal's Jurisdiction in the underlying Appeal is addressed in Appellee's Reply to Appellant's Proposition of Law No. 2.

### B. Appellee's reply to Appellant's Proposition of Law No. 2

#### *Proposition of Law No. 2*

*The Omission of the word "Development" in the name of the property owner does not go to the core of procedural efficiency and is not jurisdictional.*

#### 1. Law

R.C. §5715.19(A)(1) provides that any person, including a business entity, owning taxable real property in the county can file a complaint regarding any determination affecting any real property in the county. R.C. §5715.13 provides that a Board of Revision may not issue a determination relating valuation based on a Complaint Against Valuation unless a party who is authorized by R.C. §5715.19(A) to do so files the complaint. "Full compliance with R.C. §5715.19 and §5715.13 is necessary before a county board of revision is empowered to act on the merits of a claim." *Stanjim Co. v. Mahoning Cty. Bd. of Revision*, 38 Ohio St.2d 233, 235, 313 N.E.2d 14 (1974). Although full compliance is with R.C. §5715.19 is required, not all errors and omissions will be fatal to the Board of Revision's jurisdiction to hear a complaint. In order to be fatal, the error or omission must go to the "core of procedural efficiency." *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision*, 80 Ohio St.3d 591, 596, 1998 Ohio 179, 687 N.E.2d 723

(1998). There were two underlying purposes for the requirement that a complainant be correctly identified that go to the core of procedural efficiency. The first purpose was to assist Boards of Revision in ensuring proper notice was issued to the property owner and the second purpose was to ensure that the party who filed the complaint had standing to do so. *Automatic Data Processing Community Urban Redevelopment Corp. v. Hamilton Cty. Bd. of Revision*, BTA Nos. 2003-J-87, et seq., 2004 Ohio Tax LEXIS 1110. "[A] statutory requirement [is] mandatory and hence jurisdictional when the requirement is (1) imposed on the appellant itself and (2) relates to the informative content of the document by which the administrative proceeding is instigated." *Shinkle v. Ashtabula Cty. Bd. of Revision*, Slip Opinion No. 2013 Ohio 397, ¶ 19, citing *Zier v. Bur. of Unemp. Comp.*, 151 Ohio St. 123, 126-127, 84 N.E.2d 746 (1949).

In *Trotwood-Madison City School District v. Montgomery Cty. Bd. of Revision*, 1997 Ohio Tax LEXIS 778 (Ohio Tax 1997), the Ohio Board of Tax Appeals dismissed an appeal where the board of education failed to name the property owner on the board of revision complaint. *See also, Public Square Tower One v. Cuyahoga Cty. Bd. of Revision* (1986), 34 Ohio App. 3d 49, ([a]s used in R.C. 5715.19, the term "owner" refers to the owner on the date when a valuation complaint was filed). Recently, the Eighth District Court of Appeals ruled that a Complaint Against Valuation was not fatally flawed because it named "University Hospitals" as a complainant when the owner was, in fact "University Hospitals Health System, Inc." because the error in naming the Complainant in that case did not run to the core of procedural efficiency. *Univ. Hosps. Health Sys. v. Cuyahoga County Bd. of Revision*, 2013 Ohio 1665, ¶1 (Ohio Ct. App., Cuyahoga County Apr. 25, 2013). The court noted that the Owner and Complainant, University Hospital Health Systems, was one of the largest employers in Cuyahoga County, that the name University Hospitals was ubiquitous in Cuyahoga County, that the complainant had engaged in extensive advertising in the County, and that no other organization

named University Hospital was located in Cuyahoga County. *Id.* at ¶6, 7. The court found that the reasons for the requirement that the property owner be properly identified which were discussed in *Automatic* were not disturbed and the misidentification of the complainant did not go to the core of procedural efficiency. *Id.* at ¶9 The decision in University Hospitals Health Systems was issued on April 25, 2013 and has been distinguished on its facts by the Board of Tax Appeals three times as the date of this brief, less than five months later. *Mitiska v. Lorain County Bd. of Revision*, 2013 Ohio Tax LEXIS 3484; *Cedar Props., LLC v. Franklin County Bd. of Revision*, 2013 Ohio Tax LEXIS 2808; *Murray v. Franklin County Bd. of Revision*, 2013 Ohio Tax LEXIS 2570.

## 2. Argument

The underlying Complaint against valuation does not name the property owner in this matter and therefore the Medina County Board of Revision and the Ohio Board of Tax Appeals lacked jurisdiction to hear this matter. R.C. §5715.13 provides that the Board of Revision and, by extension, the Board of Tax Appeals, may only consider a complaint that is filed by one who is authorized to file a complaint. R.C. §5715.19 defines the persons authorized to file a complaint. Here, the property was owned by James Navratil Development Company and the complaint was filed by James Navratil Company. The complaint did not properly identify the owner and therefore, the Board of Revision did not have jurisdiction to hear the Complaint, the Board of Tax Appeals had no jurisdiction to hear the appeal. Accordingly, Appellees respectfully request to affirm the Board of Tax Appeals' decision to remand this matter with instruction to the Medina County Board of Revision to dismiss the underlying complaint for lack of jurisdiction.

The misidentification of the owner in this matter went to the core of procedural efficiency because the Complainant, *as identified on the Complaint*, has existed in

Medina County. In *University Hospitals*, the Court asserted the Board of Revision had Jurisdiction when the misidentified complainant, University Hospitals, could not have been confused with any entity other than the proper complainant, University Hospitals Health Systems, because no other entity was named University Hospitals existed within the subject County. *Univ. Hosps. Health Sys. v. Cuyahoga County Bd. of Revision*, 2013 Ohio 1665, ¶6. Here, a search of the website of the Ohio Secretary of State Business Directory, attached as Exhibit A, identifies three companies in Medina County that contain “James Navratil” in their name. In fact, a company named James Navratil Company, the owner identified in the Complaint, is registered with the Ohio Secretary of State. The status of that company is listed as dead, but given that it is listed as the Owner in this matter, it certainly is not clear that James Navratil Development Company, Inc. was the intended entity to be identified as the owner of the underlying parcels from the face of the complaint. Appellees request that this Court find that the misidentification of the owner in this matter interfered with both purposes of the requirement that the owner be properly identified and therefore the misidentification went to the core of procedural efficiency. Accordingly, Appellees request that this honorable Court affirm the decision of the Board of Tax Appeals and remand this matter to the Medina County Board of Revision with instructions to dismiss the underlying Complaint.

Additionally, the misidentification in the Complaint went to the core of procedural efficiency because James Navratil Development Company does not have a ubiquitous presence in Medina County. In *University Hospitals*, the Court noted that the proper complainant, University Hospitals Health Systems, was one of the largest employers in the subject county and had run extensive advertising campaigns to support the proposition that the Complainant as identified, University Hospitals, could not have

been confused with any other entity. *Univ. Hosps. Health Sys. v. Cuyahoga County Bd. of Revision*, 2013 Ohio 1665, ¶6, 7. There have been no similar findings in this case. There has been no testimony, evidence, or claims regarding James Navratil Development Company's ubiquitous presence in Medina County, extensive advertising in Medina County, or its employment of Medina County residents. Therefore, this Court should find that James Navratil Development Company does not have a presence in Medina County such that no other entity could have been intended to be identified by the flawed complaint. According Appellees respectfully request that this Court find that the Board of Revision and Board of Tax Appeals lacked jurisdiction to hear the matter, affirm the decision of the Board of Tax Appeals, and remand the matter to the Medina Board of Revision with instructions that that Board dismiss the underlying Complaint for lack of jurisdiction.

### **III. CONCLUSION**

Based upon the foregoing, Appellant has failed to show that it filed a complaint that invoked the jurisdiction of the Medina County Board of Revision, the Ohio Board of Tax Appeals. Accordingly, the Medina County Auditor and Medina County Board of Revision request this court: (i) affirm the Ohio Board of Tax Appeal's decision remanding its Complaint to the Medina County Board of Revision with instructions to dismiss the underlying complaint for lack of jurisdiction; (ii) assess all costs of this appeal to the Appellant; and (iii) for such other and further relief that this Court deems just and equitable.

Respectfully submitted,  
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**CERTIFICATE OF SERVICE**

I certify that a copy of this Merit Brief has been served via regular US mail on this 20th day of September, 2013. to the following:

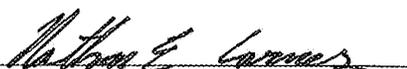
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Respectfully submitted,

  
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|---------------|--------------------------------------|------------------------|------------------------|-------------|--------|-------------------|--------|-------|
| 813471        | JAMES NAVRATIL DEVELOPMENT CO., INC. | CORPORATION FOR PROFIT | 02/27/1992             | -           | Active | MEDINA            | MEDINA | OHIO  |
| 756432        | JAMES NAVRATIL CONSTRUCTION, INC.    | CORPORATION FOR PROFIT | 08/31/1989             | -           | Dead   | MEDINA            | MEDINA | OHIO  |
| 519521        | JAMES NAVRATIL CO.                   | CORPORATION FOR PROFIT | 07/13/1978             | -           | Dead   | MEDINA            | MEDINA | OHIO  |

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|--|--------------------------------------|-----------------------|------|-----------|-------|---------------|------|-----|
| Entity Number  | 813471                               |                       |      |           |       |               |      |     |
| Business Name  | JAMES NAVRATIL DEVELOPMENT CO., INC. |                       |      |           |       |               |      |     |
| Filing Type  | CORPORATION FOR PROFIT               |                       |      |           |       |               |      |     |
| Status   | Active                               |                       |      |           |       |               |      |     |
| Original Filing Date   | 02/27/1992                           |                       |      |           |       |               |      |     |
| Expiry Date  |                                      |                       |      |           |       |               |      |     |
| Location: MEDINA   | County: MEDINA                       | State: OHIO           |      |           |       |               |      |     |
| Agent / Registrant Information   |                                      |                       |      |           |       |               |      |     |
| CHRISTINE NAVRATIL DEETER<br>403 E WASHINGTON ST<br>MEDINA, OH 44256<br>Effective Date: 02/27/1992<br>Contact Status: Active   |                                      |                       |      |           |       |               |      |     |
| Incorporator Information   |                                      |                       |      |           |       |               |      |     |
| JAMES NAVRATIL   |                                      |                       |      |           |       |               |      |     |
| Share Information  |                                      |                       |      |           |       |               |      |     |
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| Type   | Par Value                            | Total                 |      |           |       |               |      |     |
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| Filings  |                                      |                       |      |           |       |               |      |     |
| Filing Type  | Date of Filing                       | Document Number/Image |      |           |       |               |      |     |
| DOMESTIC ARTICLES FOR PROFIT   | 02/27/1992                           | H300_0082             |      |           |       |               |      |     |
| DOMESTIC CONTINUED EXISTENCE LETTER  | 09/09/1993                           | 000000117183          |      |           |       |               |      |     |

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**Corporation Details**

| Corporation Details             |                                   |                       |       |
|---------------------------------|-----------------------------------|-----------------------|-------|
| Entity Number                   | 756432                            |                       |       |
| Business Name                   | JAMES NAVRATIL CONSTRUCTION, INC. |                       |       |
| Filing Type                     | CORPORATION FOR PROFIT            |                       |       |
| Status                          | Dead                              |                       |       |
| Original Filing Date            | 08/31/1989                        |                       |       |
| Expiry Date                     |                                   |                       |       |
| Location: MEDINA                | County: MEDINA                    | State: OHIO           |       |
| Incorporator Information        |                                   |                       |       |
| ROSS L BEACHY<br>JAMES NAVRATIL |                                   |                       |       |
| Share Information               |                                   |                       |       |
|                                 | Type                              | Par Value             | Total |
|                                 | NO PAR COMMON                     | 0.50                  | 500   |
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| DOMESTIC ARTICLES/FOR PROFIT    | 08/31/1989                        | G704_1989             |       |
| DOMESTIC DISSOLUTION            | 12/31/1990                        | H039_0355             |       |
| DOMESTIC AGENT ADDRESS CHANGE   | 12/31/1990                        | H039_0355             |       |

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**Corporation Details**

| Corporation Details                                 |                        |                       |       |
|---|------------------------|-----------------------|-------|
| Entity Number                                       | 519521                 |                       |       |
| Business Name                                       | JAMES NAVRATIL CO.     |                       |       |
| Filing Type   | CORPORATION FOR PROFIT |                       |       |
| Status  | Dead                   |                       |       |
| Original Filing Date                                | 07/13/1978             |                       |       |
| Expiry Date   |                        |                       |       |
| Location: MEDINA                                    | County: MEDINA         | State: OHIO           |       |
| Incorporator Information                            |                        |                       |       |
| JAMES NAVRATIL<br>PHILIP H SMITH<br>JOHN R NAVRATIL |                        |                       |       |
| Share Information                                   |                        |                       |       |
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| Filings   |                        |                       |       |
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| DOMESTIC/AMENDMENT TO ARTICLES                      | 01/20/1981             | E659_1298             |       |
| DOMESTIC/DISSOLUTION                                | 02/03/1983             | F208_0397             |       |
| DOMESTIC AGENT ADDRESS CHANGE                       | 02/03/1983             | F208_0397             |       |

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