

ORIGINAL

IN THE SUPREME COURT OF OHIO

L. J. SMITH, INC.

Appellant,

vs.

AUDITOR AND BOARD OF
REVISION OF HARRISON
COUNTY, OHIO, *ET AL.*,

Appellees.

Case No. 2013-0934

On Appeal from the
Ohio Board of Tax Appeals

B.T.A. Case No. 2011-W-611

MERIT BRIEF OF APPELLANT L. J. SMITH, INC.

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STATEMENT OF FACTS

On March 18, 2010, Appellant mailed a cover letter, along with two complaints against the valuation of real property, to the Harrison County Auditor. Amy Guy Affidavit filed April 3, 2013, at ¶¶ 2 and 3. The mailing was not returned by the post office as being undeliverable or unclaimed. Guy Affidavit, ¶ 5. To the contrary, after the mailing, Appellant's representative had several conversations with the Harrison County Auditor or his staff concerning the complaints. Guy Affidavit, ¶ 6.

One of the two complaints submitted by the Appellant was for property that was sold in September 2010 and, consequently, is not part of this appeal. The other complaint (which is part of the same mailing of March 18, 2010) was discussed with the Harrison County Auditor's Office on three occasions between April and September 2010. Guy Affidavit, ¶¶ 7 through 9.

Appellant's representative first spoke with the Harrison County Auditor about the complaint for the parcels at issue on October 26, 2010. Guy Affidavit, ¶ 10. The auditor, instead of scheduling a hearing, said that he was going to arrange a meeting with Appellee, Conotton Valley School District, to discuss the complaint. Guy Affidavit, ¶ 10. This meeting occurred in November 2010, and the parties specifically discussed Appellant's appraisal of 2.7 million dollars, a summary of which was provided with the complaint. Guy Affidavit, ¶ 11.

Two weeks later on November 18, 2010, the Harrison County Auditor advised Appellant that he had new valuation figures. Guy Affidavit, ¶ 12. On November 23,

2010, the auditor told Appellant's representative that the revised valuation was going to be Three Million Four Hundred Ninety-Three Thousand Dollars (\$3,493,000). Guy Affidavit, ¶ 13.

On February 9, 2011, counsel for Conotton Valley School District confirmed with Appellant that the auditor's office relayed a new valuation figure of \$3.5 million to the Conotton Valley School District Treasurer. Guy Affidavit, ¶ 14. After two follow-up phone calls to the auditor's office, a Final Appealable Order from the Harrison County Board of Revision was received on February 18, 2011. Guy Affidavit, ¶ 17.

Appellant timely appealed the order to the Ohio Board of Tax Appeals. After a period of discovery, the matter was set for a merits hearing on January 22, 2013, which was rescheduled for February 26, 2013 in order for the parties to discuss potential compromise. *See Request to Reschedule Hearing*, filed January 9, 2013.

Appellee, Conotton Valley School District, filed a Motion to Dismiss Appeal and to Reinstate County Auditor's Original Value on February 22, 2013. Appellee argued that the Board of Revision lacked jurisdiction to reduce the subject property's value. The School District's Treasurer stated in her affidavit in support:

5. L.J. Smith never filed a formal complaint with the Auditor or the BOR seeking to reduce the value of the Property. Even if such a complaint was filed, the BOR never notified the Board of Education of this.
6. The BOR never held a formal hearing to decide L.J. Smith's request to reduce the value of the Property. Even if such a hearing was held, the BOR never notified the Board of Education of this.

On February 25, 2013, the Ohio Board of Tax Appeals ordered the Harrison County Board of Revision to certify its proceedings in accordance with Revised Code 5717.01 since this had not been done yet. The Harrison County Board of Revision did not respond to this order. *See* Ohio Board of Tax Appeals Decision and Order entered May 9, 2013, at footnote 1.

Appellant filed a Motion to Remand and a Memorandum in Opposition on March 12, 2013, asking that the matter be sent back to the Harrison County Board of Revision to have a hearing. On March 22, 2013, Appellee filed a response, including an affidavit from the Harrison County Auditor. The affidavit indicated that the complaint “alleged to have been filed by L. J. Smith, Inc.,” was “never filed with my office.” Appellant responded on April 13, 2013 with the detailed affidavit of the Appellant’s representative, as set forth above.

The Board of Tax Appeals issued its decision on May 9, 2013 finding that the Harrison County Board of Revision lacked jurisdiction to reduce the property values because “Appellant failed to file a complaint.”

ARGUMENT

PROPOSITION OF LAW NO. I:

A taxpayer may not be denied the right to proceed with a complaint against the valuation of real estate because of irregularities in the processing of the complaint by the county auditor and county board of revision.

This Proposition of Law addresses both of the Appellant’s assignments of error:

Assignment of Error No. 1

The Board unreasonably or unlawfully decided that the Harrison County Auditor properly performed his duties, despite evidence to the contrary.

Assignment of Error No. 2

The Board unreasonably or unlawfully failed to remand the matter for proceedings consistent with Ohio Revised Code Chapter 5715, specifically for the Harrison County Board of Revision to hold an evidentiary hearing.

This case presents a highly unusual situation. The issue before the Court is whether or not a complaint against the valuation of real property was even filed by Appellant, L. J. Smith, Inc.

The Ohio Board of Tax Appeals determined that a complaint was not filed, despite considerable evidence to the contrary, because of a presumption in the law that public officials do things properly. *See* Decision of Ohio Board of Tax Appeals entered May 9, 2013 at page 4. Here, there is little doubt that the Harrison County Auditor did not perform his duties flawlessly.

Appellant mailed the complaint to the Harrison County Auditor. It was not returned undeliverable or unclaimed. Thereafter, the auditor acted upon the complaint by scheduling an informal meeting with Conotton Valley School District to discuss Appellant's 2.7 million dollar appraisal. How did the auditor know about Appellant's dissatisfaction with the valuation unless he received the mailing containing the Complaint in the first place? A corollary question would be, "Why would the Board of Revision feel compelled to issue a Final Appealable Order, if there was no complaint submitted?"

The auditor, some two years into the proceedings, first stated that a complaint was never filed at his office. This begs the question: Was the mailing received but not time-stamped in? Since the Harrison County Board of Revision has opted not to respond to the Ohio Board of Tax Appeals order to certify the proceedings (and send all evidence pertaining to the complaint), we do not know what may be in their files. Perhaps the complaint was inadvertently set aside and not marked as filed?

This type of oversight is certainly not beyond the pale, given the auditor's "informal" handling of the matter. It is undeniable that while we have a Final Appealable Order from the Board of Revision, there was not:

- An evidentiary hearing, as required by Revised Code Section 5715.19(C);
- Notice to the affected school district, as required by Revised Code Section 5715.19(B); and
- Compliance with the Ohio Board of Tax Appeals order of February 25, 2013.

The questions remain: If the complaint was not received, how did the auditor know that L. J. Smith had a problem with the valuation? Why was a ruling issued from the Board of Revision, if there was no complaint?

It is uncontroverted that the parties met and discussed the valuation of the property. What triggered this inquiry to begin with? The Board of Tax Appeals based its decision on the following legal authority:

"...as the Supreme Court has stated, "[t]he rule is generally accepted that, in the absence of evidence to the contrary, public officers, administrative officers and public boards, within the limits of the jurisdiction conferred by law, will be presumed to have properly performed their duties and not to have acted illegally but regularly and in a lawful manner. All legal

intendments are in favor of the administrative action.’ ****’ *Cedar Bay Constr., Inc. v. Fremont* (1990), 50 Ohio St.3d 19, 21. (Citations omitted.) See, also, *Wheeling Steel Corp. v. Evatt* (1944), 143 Ohio St. 71, paragraph seven of the syllabus; *Zalud Oldsmobile Pontiac, Inc. v. Travy* (1996), 77 Ohio St.3d 74; *Althof v. Ohio State Bd. of Psychology*, Franklin App. No. 5AP-1169, 2007-Ohio-1010, at ¶35. Compare, *Consolidated Freightways, Inc. v. Summit Cty. Bd. of Revision* (1986), 21 Ohio St.3d 17.”

The cases relied upon by the Board of Tax Appeals stand for an admittedly accurate proposition of law, e.g., that public officials are presumed to have acted properly in the performance of their duties. The significant exception to the general rule, which has been ignored wholly in the legal analysis is, “...in the absence of evidence to the contrary...public officials are presumed to have properly performed their duties.” Is there any question that the Harrison County Auditor and Board of Revision properly performed their duties?

If this decision is allowed to stand, the taxpayer cannot be heard because the public officials did not proceed in accordance with statute. Several sections of the Ohio Revised Code require a board of revision to “hear” the real property taxation complaints filed with it. For example, R.C. 5715.01(B) provides that the board of revision “shall hear complaints and revise assessments of real property for taxation.”

R.C. 5715.11 provides that, “The county board of revision shall hear complaints relating to the valuation or assessment of real property as the same appears upon the tax duplicate of the then current year. The board shall investigate all such complaints and may increase or decrease any such valuation or correct any assessment complained of, or it may order a reassessment by the original assessing officer.” Also, R.C. 5715.19(C)

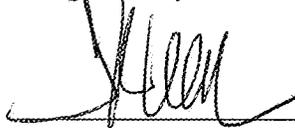
requires that each complainant and property owner receive notice “not less than ten days prior to the hearing of the time and place the same will be heard.”

The failure of the Board of Revision to conduct a hearing on L. J. Smith’s complaint (and provide notice to the parties) requires that this matter be remanded to the Board of Revision for proper proceedings to allow the parties the opportunity for a hearing on the underlying complaint. *See Maple Heights Sch. Dist. Bd. of Ed. v. Cuyahoga Cty. Bd. of Revision* (January 15, 2013), BTA No. 2009-Q-1716. Moreover, it is untenable to give the Auditor and Board of Revision the “presumption” that they acted properly, given the record. *See Mott Building, Inc. v. Perk* (Dec. 29, 1969), 24 Ohio Misc. 110 (holding in part that a taxpayer may not be prejudiced by the failure of a county board of revision to properly proceed on the taxpayer’s complaint of overassessment).

CONCLUSION

In light of the foregoing, the matter should be remanded to the Board of Revision for further proceedings in accordance with Ohio Revised Code Chapter 5715; specifically, for a hearing and decision on the complaint submitted on March 18, 2010.

Respectfully submitted,



J. Kevin Lundholm (# 0030393)

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COUNSEL FOR APPELLANT, L. J. SMITH, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Merit Brief of Appellant L. J. Smith, Inc., was sent by ordinary U.S. mail, on this 27th day of September, 2013, to the following:

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Appellees.

Case No. 13-0934

On Appeal from the
Ohio Board of Tax Appeals

B.T.A. Case No. 2011-W-611

NOTICE OF APPEAL OF APPELLANT
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FILED

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SUPREME COURT OF OHIO

RECEIVED

JUN 10 2013

CLERK OF COURT
SUPREME COURT OF OHIO

Notice of Appeal of Appellant, L. J. Smith, Inc.

Pursuant to S. Ct. Prac. R. 2.3(A)(1), notice is hereby given that Appellant, L. J. Smith, Inc., hereby appeals to the Supreme Court of Ohio from the order entered in this action on the 9th day of May, 2013. A copy of this decision is attached.

Appellant claims the errors which follow:

1. The Board unreasonably or unlawfully decided that the Harrison County Auditor properly performed his duties, despite evidence to the contrary.
2. The Board unreasonably or unlawfully failed to remand the matter for proceedings consistent with Ohio Revised Code Chapter 5715, specifically for the Harrison County Board of Revision to hold an evidentiary hearing.

A written demand for a record of the proceedings has been filed with the Ohio Board of Tax Appeals, pursuant to R.C. 5717.04.

Respectfully submitted,



J. Kevin Lundholm (# 0030393)

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COUNSEL FOR APPELLANT, L. J. SMITH, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Notice of Appeal was served, via certified mail, return receipt requested, on this 7th day of June, 2013, upon the following:

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COUNSEL FOR APPELLANT, L. J. SMITH, INC.

OHIO BOARD OF TAX APPEALS

L.J. Smith, Inc.,)	CASE NOS. 2011-W-611
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Harrison County Board of Revision,)	
Harrison County Auditor and Conotton)	
Valley Union Local School District Board)	
of Education,)	
)	
Appellees.)	

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Entered **MAY 09 2013**

Mr. Williamson and Mr. Johrendt concur.

This matter came to be considered by the Board of Tax Appeals upon the filing of what we have interpreted as a motion to remand with instructions to vacate the board of revision’s decision to reduce the true and taxable values of the subject properties. By way of the motion, the Conotton Valley Union Local School District Board of Education (“BOE”) argues that the appellant failed to file a formal complaint

with the board of revision and that the board of revision lacked jurisdiction to issue a decision reducing the values of the subject properties. In support of its position, the BOE submitted an affidavit from Patrick Moore, Harrison County Auditor, averring that the appellant never filed a complaint contesting the valuations of the subject properties. The appellant argues that it did, in fact, file a complaint seeking reductions to the subject properties' values with the county board of revision; however, the appellant concedes that the board of revision may not have satisfied its statutory duties to provide notice of the complaint to the affected board of education and to provide the parties an opportunity to be heard on the complaint. Therefore, instead of vacating the board of revision's decision, the appellant argues that the case should be remanded for proceedings consistent with statutory requirements. In support of its position, the appellant submitted an affidavit from Amy Guy, Chief Financial Officer at L.J. Smith, Inc., averring that she did, in fact, submit a complaint challenging the subject properties' valuations. The county appellees have failed to respond to the motion within the period for doing so established by the board's rules.¹ See Ohio Adm. Code 5717-1-12(B). Based upon the record before us, we conclude that the board of revision lacked jurisdiction to issue a decision reducing the subject properties' values.

The board of education's motion is premised upon relevant portions of R.C. 5715.13 and R.C. 5715.19. R.C. 5715.13 provides, in relevant part, that:

“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

¹ On February 25, 2013, this board issued an order requiring the board of revision to certify a copy of the transcript as required by R.C. 5717.01.

application therefor, verified by oath and signature, showing the facts upon which it is claimed such decrease should be made.”

R.C. 5715.19(A)(1) further provides that “a complaint * * * shall be filed with the county auditor on or before the thirty-first day of March of the ensuing tax year.” More specifically, R.C. 5715.19(B) provides for the following:

“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 * * * 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.”

The limited record before us demonstrates the following. On November 4, 2010, representatives of the parties to this litigation discussed the values of the subject properties at an “informal meeting.” On March 15, 2011, the board of revision issued a “final appealable order” reducing the subject properties’ values and this appeal ensued.

However, nothing in the record demonstrates that the appellant did, in fact, file a complaint with the board of revision as required by R.C. 5715.19. Although the appellant provided the affidavit of Ms. Guy averring that she filed a complaint

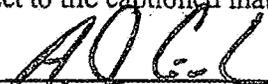
contesting the subject properties' values and attached a copy of a complaint to its motion in opposition, said complaint does not contain a stamp demonstrating that it was actually filed with the board of revision. In addition, the county auditor provided an affidavit averring that "[t]he Complaint Against the Valuation of Real Property that is [] alleged to have been filed by L.J. Smith, Inc. was never filed with my office." Board of Education's Response at Affidavit of Patrick Moore.

We note the disagreement between Ms. Guy and Mr. Moore about whether the appellant filed a complaint challenging the subject properties' values and do not doubt that they are both telling the truth as they know it. However, as the Supreme Court has stated, "[t]he rule is generally accepted that, in the absence of evidence to the contrary, public officers, administrative officers and public boards, within the limits of the jurisdiction conferred by law, will be presumed to have properly performed their duties and not to have acted illegally but regularly and in a lawful manner. All legal intendments are in favor of the administrative action.' ****" *Cedar Bay Constr., Inc. v. Fremont* (1990), 50 Ohio St.3d 19, 21. (Citations omitted.) See, also, *Wheeling Steel Corp. v. Evatt* (1944), 143 Ohio St. 71, paragraph seven of the syllabus; *Zalud Oldsmobile Pontiac, Inc. v. Tracy* (1996), 77 Ohio St.3d 74; *Althof v. Ohio State Bd. of Psychology*, Franklin App. No. 05AP-1169, 2007-Ohio-1010, at ¶35. Compare, *Consolidated Freightways, Inc. v. Summit Cty. Bd. of Revision* (1986), 21 Ohio St.3d 17.

Accordingly, we conclude that the appellant failed to file a complaint seeking reductions to the subject properties' values and, as a consequence, the board of

revision lacked jurisdiction to decrease the subject properties' values. Therefore, we remand this case to the board of revision with instructions to vacate its decision dated March 15, 2011 and to reinstate the county auditor's values.

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.



A.J. Groebey, Board Secretary

OHIO BOARD OF TAX APPEALS

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Entered MAY 09 2013

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This matter came to be considered by the Board of Tax Appeals upon the filing of what we have interpreted as a motion to remand with instructions to vacate the board of revision’s decision to reduce the true and taxable values of the subject properties. By way of the motion, the Conotton Valley Union Local School District Board of Education (“BOE”) argues that the appellant failed to file a formal complaint

with the board of revision and that the board of revision lacked jurisdiction to issue a decision reducing the values of the subject properties. In support of its position, the BOE submitted an affidavit from Patrick Moore, Harrison County Auditor, averring that the appellant never filed a complaint contesting the valuations of the subject properties. The appellant argues that it did, in fact, file a complaint seeking reductions to the subject properties' values with the county board of revision; however, the appellant concedes that the board of revision may not have satisfied its statutory duties to provide notice of the complaint to the affected board of education and to provide the parties an opportunity to be heard on the complaint. Therefore, instead of vacating the board of revision's decision, the appellant argues that the case should be remanded for proceedings consistent with statutory requirements. In support of its position, the appellant submitted an affidavit from Amy Guy, Chief Financial Officer at L.J. Smith, Inc., averring that she did, in fact, submit a complaint challenging the subject properties' valuations. The county appellees have failed to respond to the motion within the period for doing so established by the board's rules.¹ See Ohio Adm. Code 5717-1-12(B). Based upon the record before us, we conclude that the board of revision lacked jurisdiction to issue a decision reducing the subject properties' values.

The board of education's motion is premised upon relevant portions of R.C. 5715.13 and R.C. 5715.19. R.C. 5715.13 provides, in relevant part, that:

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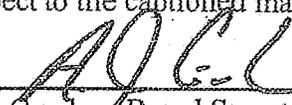
contesting the subject properties' values and attached a copy of a complaint to its motion in opposition, said complaint does not contain a stamp demonstrating that it was actually filed with the board of revision. In addition, the county auditor provided an affidavit averring that "[t]he Complaint Against the Valuation of Real Property that is [] alleged to have been filed by L.J. Smith, Inc. was never filed with my office." Board of Education's Response at Affidavit of Patrick Moore.

We note the disagreement between Ms. Guy and Mr. Moore about whether the appellant filed a complaint challenging the subject properties' values and do not doubt that they are both telling the truth as they know it. However, as the Supreme Court has stated, "[t]he rule is generally accepted that, in the absence of evidence to the contrary, public officers, administrative officers and public boards, within the limits of the jurisdiction conferred by law, will be presumed to have properly performed their duties and not to have acted illegally but regularly and in a lawful manner. All legal intendments are in favor of the administrative action.' ***" *Cedar Bay Constr., Inc. v. Fremont* (1990), 50 Ohio St.3d 19, 21. (Citations omitted.) See, also, *Wheeling Steel Corp. v. Evatt* (1944), 143 Ohio St. 71, paragraph seven of the syllabus; *Zalud Oldsmobile Pontiac, Inc. v. Tracy* (1996), 77 Ohio St.3d 74; *Althof v. Ohio State Bd. of Psychology*, Franklin App. No. 05AP-1169, 2007-Ohio-1010, at ¶35. Compare, *Consolidated Freightways, Inc. v. Summit Cty. Bd. of Revision* (1986), 21 Ohio St.3d 17.

Accordingly, we conclude that the appellant failed to file a complaint seeking reductions to the subject properties' values and, as a consequence, the board of

revision lacked jurisdiction to decrease the subject properties' values. Therefore, we remand this case to the board of revision with instructions to vacate its decision dated March 15, 2011 and to reinstate the county auditor's values.

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.



A.J. Groeber, Board Secretary

Baldwin's Ohio Revised Code Annotated
Title LVII. Taxation (Refs & Annos)
Chapter 5715. Boards of Revision; Equalization of Assessments (Refs & Annos)
General Provisions

R.C. § 5715.01

5715.01 Tax commissioner to direct and supervise assessment of real property; procedures; county board of revision to hear complaints; rules of commissioner

Currentness

(A) The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule for such values and for the determination of the current agricultural use value of land devoted exclusively to agricultural use. The uniform rules shall prescribe methods of determining the true value and taxable value of real property and shall also prescribe the method for determining the current agricultural use value of land devoted exclusively to agricultural use, which method shall reflect standard and modern appraisal techniques that take into consideration: the productivity of the soil under normal management practices; the average price patterns of the crops and products produced to determine the income potential to be capitalized; the market value of the land for agricultural use; and other pertinent factors. The rules shall provide that in determining the true value of lands or improvements thereon for tax purposes, all facts and circumstances relating to the value of the property, its availability for the purposes for which it is constructed or being used, its obsolete character, if any, the income capacity of the property, if any, and any other factor that tends to prove its true value shall be used. In determining the true value of minerals or rights to minerals for the purpose of real property taxation, the tax commissioner shall not include in the value of the minerals or rights to minerals the value of any tangible personal property used in the recovery of those minerals.

(B) The taxable value shall be that per cent of true value in money, or current agricultural use value in the case of land valued in accordance with section 5713.31 of the Revised Code, the commissioner by rule establishes, but it shall not exceed thirty-five per cent. The uniform rules shall also prescribe methods of making the appraisals set forth in section 5713.03 of the Revised Code. The taxable value of each tract, lot, or parcel of real property and improvements thereon, determined in accordance with the uniform rules and methods prescribed thereby, shall be the taxable value of the tract, lot, or parcel for all purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 5717.01 to 5717.06 of the Revised Code. County auditors shall, under the direction and supervision of the commissioner, be the chief assessing officers of their respective counties, and shall list and value the real property within their respective counties for taxation in accordance with this section and sections 5713.03 and 5713.31 of the Revised Code and with such rules of the commissioner. There shall also be a board in each county, known as the county board of revision, which shall hear complaints and revise assessments of real property for taxation.

(C) The commissioner shall neither adopt nor enforce any rule that requires true value for any tax year to be any value other than the true value in money on the tax lien date of such tax year or that requires taxable value to be obtained in any way other than by reducing the true value, or in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, by a specified, uniform percentage.

CREDIT(S)

(2005 H 66, eff. 6-30-05; 1983 H 260, eff. 9-27-83; 1980 H 736; 1977 H 634; 1976 H 920; 1974 S 423; 1972 S 455; 1969 S 199; 131 v H 337; 128 v 410; 127 v 65; 1953 H 1; GC 5579)

Notes of Decisions (57)

R.C. § 5715.01, OH ST § 5715.01

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5715.11 Duty of county board of revision to hear complaints, OH ST § 5715.11

Baldwin's Ohio Revised Code Annotated
Title LVII. Taxation (Refs & Annos)
Chapter 5715. Boards of Revision; Equalization of Assessments (Refs & Annos)
County Board of Revision

R.C. § 5715.11

5715.11 Duty of county board of revision to hear complaints

Currentness

The county board of revision shall hear complaints relating to the valuation or assessment of real property as the same appears upon the tax duplicate of the then current year. The board shall investigate all such complaints and may increase or decrease any such valuation or correct any assessment complained of, or it may order a reassessment by the original assessing officer.

CREDIT(S)

(1953 H 1, eff. 10-1-53; GC 5597)

Notes of Decisions (41)

R.C. § 5715.11, OH ST § 5715.11

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Baldwin's Ohio Revised Code Annotated
Title LVII. Taxation (Refs & Annos)
Chapter 5715. Boards of Revision; Equalization of Assessments (Refs & Annos)
Practice and Procedure

R.C. § 5715.19

5715.19 Complaints; tender of tax or lesser amount; penalties; common level of assessment to be determined

Effective: September 28, 2012

Currentness

- (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.

If such a complaint is filed by mail or certified mail, the date of the United States postmark placed on the envelope or sender's receipt by the postal service shall be treated as the date of filing. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the filing date.

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.

(4) Notwithstanding division (A)(2) of this section, a person, board, or officer may 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 if the person, board, or officer withdrew the complaint before the complaint was heard by the board.

(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.

5715.19 Complaints; tender of tax or lesser amount; penalties;..., OH ST § 5715.19

(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.

CREDIT(S)

(2012 H 509, eff. 9-28-12; 2006 H 294, eff. 9-28-06; 2002 H 390, eff. 3-4-02; 1998 H 694, eff. 3-30-99; 1988 H 603, eff. 6-24-88; 1984 H 379; 1983 H 260; 1982 H 379; 1981 S 6; 1980 H 736, H 1238; 1978 H 648; 1977 H 1; 1976 H 920; 1974 S 423; 1971 S 428, H 931; 131 v H 337; 129 v 582; 128 v 410; 127 v 65; 1953 H 1; GC 5609)

Notes of Decisions (565)

R.C. § 5715.19, OH ST § 5715.19

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Baldwin's Ohio Revised Code Annotated
Title LVII. Taxation (Refs & Annos)
Chapter 5717. Appeals (Refs & Annos)

R.C. § 5717.01

5717.01 Appeal from county board of revision to board of tax appeals; procedure; hearing

Effective: [See Text Amendments] to October 10, 2013

Currentness

<Note: See also version(s) of this section with later effective date(s).>

An appeal from a decision of a county board of revision may be taken to the board of tax appeals within thirty days after notice of the decision of the county board of revision is mailed as provided in division (A) of section 5715.20 of the Revised Code. Such an appeal may be taken by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the Revised Code to file complaints against valuations or assessments with the auditor. Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, or authorized delivery service, with the board of tax appeals and with the county board of revision. If notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. Upon receipt of such notice of appeal such county board of revision shall by certified mail notify all persons thereof who were parties to the proceeding before such county board of revision, and shall file proof of such notice with the board of tax appeals. The county board of revision shall thereupon certify to the board of tax appeals a transcript of the record of the proceedings of the county board of revision pertaining to the original complaint, and all evidence offered in connection therewith. Such appeal may be heard by the board of tax appeals at its offices in Columbus or in the county where the property is listed for taxation, or the board of tax appeals may cause its examiners to conduct such hearing and to report to it their findings for affirmation or rejection.

The board of tax appeals may order the appeal to be heard on the record and the evidence certified to it by the county board of revision, or it may order the hearing of additional evidence, and it may make such investigation concerning the appeal as it deems proper.

CREDIT(S)

(2002 H 675, eff. 3-14-03; 2000 H 612, eff. 9-29-00; 1983 H 260, eff. 9-27-83; 1981 S 6; 1976 H 920; 1953 H 1; GC 5610)

Notes of Decisions (357)

R.C. § 5717.01, OH ST § 5717.01

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