

OHIO BOARD OF TAX APPEALS

Columbus City School District)
Board of Education,)
)
Appellant,) (REAL PROPERTY TAX)
)
)
vs.)
)
Thomas M. Zaino,)
Tax Commissioner of Ohio,)
)
Appellee.)

APPEARANCES:

- For the Appellant - Martin J. Hughes III
Green & Hughes Co., LPA
100 E. Wilson Bridge Road, Suite 210
Worthington, Ohio 43085

- For the Appellee - Betty D. Montgomery
Ohio Attorney General
By: Richard Farrin
Assistant Attorney General
30 E. Broad Street, 16th Floor
Columbus, Ohio 43215

- For the Appellee Property Owner - TIAA-CREF
730 Third Ave. 9th Floor
New York, NY 10017

Entered: October 19, 2001

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

This cause and matter is considered by the Board of Tax Appeals pursuant to a Notice of Appeal filed herein by the above-named appellant. This appeal is taken from a final determination of the Tax Commissioner, wherein that official dismissed a complaint against the continuing exemption of certain real property from taxation, filed by appellant, the Columbus City Schools Board of Education (“BOE”).

The property which is the subject of this appeal is located at 3400 Morse Crossing in the City of Columbus, Columbus City School taxing district of Franklin County and is identified as Parcel No. 010-237385. The property was owned in 1999 by TIAA-CREF. The subject property was granted exemption from taxation pursuant to R.C. 3735.65 *et seq.* Through such statutes, the General Assembly prescribed a method for creating a Community Reinvestment Area (“CRA”) and allowed for an exemption from real property taxation provided certain conditions are met. Notwithstanding the specific provisions contained in R.C. 3735.68 to revoke an exemption, the BOE sought the Tax Commissioner’s review under his authority to consider the continued grant of real property tax exemption pursuant to R.C. 5715.27. The Commissioner concluded that R.C. 3735.65, *et seq.*, being the specific statutes, prevailed over the general provisions of R.C. 5715.27. Therefore, the Tax Commissioner concluded that he had no jurisdiction to consider the continued exemption of property receiving exemption under R.C. 3735.65 *et seq.*

Recently, in *Gahanna-Jefferson Local School Dist. Bd. of Edn. v. Zaino* (2001), 93 Ohio St.3d 231, the Ohio Supreme Court considered both R.C. 5715.27 and R.C. 3735.65, *et seq.*, and concluded that the specific requirements found to remove a real property exemption under the statutes creating a Community Reinvestment Area (“CRA”) could be harmonized with the general grant of authority to the Tax Commissioner to review continued grants of real property tax exemption. The Court concluded that R.C. 3735.65 *et seq.* and R.C. 5715.27 were not in conflict and both provided avenues for challenge to differing constituents. A board of education meeting the complaint requirement of R.C. 5715.27(E) may challenge the continued exemption of a property granted exemption under a CRA to the Commissioner. Therefore, the Commissioner erred when he concluded that he was without authority to consider the continued exemption from real property tax of property granted exemption under a CRA.

The identical facts exist in the present appeal. Therefore, we conclude that *Gahanna-Jefferson Local School Dist. Bd. of Edn.* is controlling and find that the Tax Commissioner erred when he dismissed the present complaint.

Considering the record before us, this Board finds and determines that the Commissioner erred when he concluded he was without jurisdiction to consider the BOE's complaint. The matter is remanded to the Tax Commissioner for further consideration.

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