

OHIO BOARD OF TAX APPEALS

Board of Education of the )  
South-Western City School District, ) CASE NO. 2002-N-1685  
)  
Appellant, )  
)  
vs. ) (REAL PROPERTY TAX)  
)  
Franklin County Board ) DECISION AND ORDER  
of Revision and Auditor, )  
and Gillilan Family LP, )  
)  
Appellees. )

APPEARANCES:

For the Appellant - Rich, Crites & Wesp  
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For the County Appellees - Ronald O'Brien  
Prosecuting Attorney  
Richard Hoffman  
Assistant Prosecuting Attorney  
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For the Gillilan Family LP - Schottenstein, Zox & Dunn  
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Entered March 7, 2003

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

The record in this matter establishes the following: On January 11, 2000, the Franklin County Board of Revision (“BOR”) certified its decision in BOR Complaint No. 98-901248 to the complainant, pertaining to tax year 1998. However, at that time, a

copy of the decision was not certified to the Tax Commissioner as required by R.C. 5715.20. On February 8, 2000, appellant filed a notice of appeal with this board from the BOR's decision, docketed as BTA No. 2000-N-100. This board issued its decision and order May 31, 2002 from which an appeal was filed with the Ohio Supreme Court, Case No. 02-1103. Therein, the matter was remanded to the board of revision under date of November 26, 2002; we issued our certification and order December 20, 2002. Prior to the remand, on October 4, 2002, the board of revision certified its decision to the Tax Commissioner. On November 1, 2002, appellant filed the instant appeal.

With respect to the jurisdictional validity of the instant appeal, in *Cleveland Elec. Illuminating Co. v. Lake Cty. Bd. of Revision* (Oct. 11, 2002), BTA No. 2001-M-57, et seq., unreported, we held a county board of revision was without authority to certify its decision to the Tax Commissioner in a matter then pending on appeal:

“One final question does remain: whether upon CEI's filing notices of appeal with this board and the BOR, the BOR had any jurisdiction to subsequently issue the required certification to the Tax Commissioner. Pursuant to R.C. 5717.01, upon receipt of a notice of appeal, the BOR is required to notify all parties to the proceeding, and to prepare and file a transcript of the proceedings. We would conclude that once an appeal is reposed with this board, the BOR may not otherwise affect the proceedings. Certainly it would be presumed the BOR has no authority to take any subsequent action which would affect the jurisdictional requisites of an appeal. The BOR did not have jurisdiction to make the required certification to the Tax Commissioner after the filing of CEI's notice[s] of appeal, and thus under the circumstances here, could not deprive CEI of any further right to review.

“There is ample authority that after issuance of its decision, a BOR retains jurisdiction only for the thirty-day appeal

period, or until the filing of a notice of appeal from such decision with the Board of Tax Appeals or the common pleas court. \*\*\*

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“We conclude therefore that the BOR was without authority to certify its decision to the Tax Commissioner after the filing of the notices of appeal, in an attempt to correct the omission of certification.” *Id.* at 13-14.

In accordance with our decision announced in *Cleveland Elec. Illuminating Co. v. Lake Cty. Bd. of Revision* (Oct. 11, 2002), BTA Nos. 2001-M-57, et seq., as well as *Cleveland Elec. Illuminating Co. v. Lake Cty. Bd. of Revision* (Oct. 11, 2002), BTA Nos. 2002-M-1127, et seq., unreported, the Board of Tax Appeals now finds the instant appeal to be duplicative of appellant’s earlier-filed appeal and filed prior to the beginning of the statutory time period for filing such appeal. The instant appeal was filed and the decision was certified to the Tax Commissioner while the prior appeal was still pending before the Supreme Court. Therefore, the instant notice of appeal vests no jurisdiction with this board.

Accordingly, the instant appeal is hereby dismissed. Upon dismissal of this appeal, the matter is again before the BOR for certification of its action to the Tax Commissioner pursuant to R.C. 5715.20, as ordered by the Supreme Court in *South Broad Company, Ltd. v. Montgomery Cty. Bd. of Revision*, cited as *Cleveland Elec. Illum.*, supra. Good practice, if not constitutional requirements, suggest a simultaneous certification of its action to all parties, including the Tax Commissioner, or subsequent notice of certification to the Tax Commissioner to all parties.

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