

OHIO BOARD OF TAX APPEALS

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| Roselawn Center Limited Partnership, |) | |
| |) | CASE NOS. 2004-G-1295, 2004-G-1296 |
| Appellant, |) | |
| |) | (REAL PROPERTY TAX) |
| vs. |) | |
| |) | DECISION AND ORDER |
| Montgomery County Board of Revision, |) | |
| Montgomery County Auditor, and |) | |
| Centerville City School District |) | |
| Board of Education, |) | |
| |) | |
| Appellees. |) | |

APPEARANCES:

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|---------------------------------|---|---|
| For the Appellant | - | Todd W. Sleggs & Associates Todd W. Sleggs 820 West Superior Avenue, Suite 410 Cleveland, Ohio 44113 |
| For the County Appellees | - | Mathias H. Heck Montgomery County Prosecuting Attorney Douglas M. Trout Assistant Prosecuting Attorney 301 West Third Street 5 th Floor, P.O. Box 972 Dayton, Ohio 45422 |
| For the Appellee Bd. of Edn. | - | Whalen & Compton Co., L.P.A. Elizabeth Grooms Taylor 565 Wolf Ledges Parkway P.O. Box 2020 Akron, Ohio 44309 |

Entered August 26, 2005

Ms. Margulies, Mr. Eberhart, and Mr. Dunlap concur.

This cause and matter is now considered by the Board of Tax Appeals pursuant to an order issued by this board on June 17, 2005, requiring the appellant to show cause why this matter should not be dismissed for failure to comply with the

requirements of R.C. 5717.01, thereby failing to invoke the jurisdiction of this board. The appellant informed this board that no response would be filed.

R.C. 5717.01 sets forth the procedure to appeal a decision of a county board of revision to the Board of Tax Appeals, and provides, in pertinent part, as follows:

“An appeal from a decision of the 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 section 5715.20 of the Revised Code.* *** 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.
(Emphasis added.)

The statutory transcript reflects that the Montgomery County Board of Revision (“BOR”) mailed the decision in the instant matter by certified mail to the appellant on September 24, 2004.¹ The appellant’s notices of appeal were filed with this board on November 22, 2004 and with the BOR on November 1, 2004.

In the present case, the record reflects that the notices of appeal were not timely filed. The requirements of R.C. 5717.01 are specific and mandatory in nature. When a statute confers the right of appeal, adherence to the terms and conditions set forth therein is essential to the enjoyment of the right conferred. *American Restaurant*

¹ Decisions were mailed to the property owner, the BOE, and the property owner’s agent listed on the original complaint filed with the BOR. On July 9, 2004, Todd W. Sleggs entered an appearance on behalf of the property owner. Notice of the BOR’s decision was not mailed to Mr. Sleggs until November 1, 2004. However, R.C. 5715.20 does not require notice to the property owner’s agent. The statutorily prescribed time for filing a notice of appeal begins with the date upon which a statutorily prescribed notice is mailed. *Metropolitan Life Insurance v. Montgomery Cty. Bd. of Revision* (Jan. 7, 2005), BTA No. 2004-M-1129, unreported; *Klaben Chrysler Plymouth, Inc. v. Limbach* (Apr. 24, 1992), BTA No. 1990-F-1255, unreported.

and Lunch Co. v. Glander (1946), 147 Ohio St. 147. The statutory requirements for filing a notice of appeal from a decision of a county board of revision are mandatory and jurisdictional. *Bd. of Edn. of Mentor v. Bd. of Revision* (1980), 61 Ohio St.2d 332.

Since the record reflects that the appellant failed to comply with the requirements of R.C. 5717.01, and strict compliance with R.C. 5717.01 is essential to vest jurisdiction with this board, we find that this board has no jurisdiction to consider the instant appeal. Therefore, it is the decision and order of the Board of Tax Appeals that the above-captioned matter must be, and hereby is, dismissed.

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