

OHIO BOARD OF TAX APPEALS

Paula A. Greene,)
)
 Appellant,) (CASE NO. 2004-G-673
) (REAL PROPERTY TAX)
 vs.)
) DECISION AND ORDER
)
 Licking County Board of Revision)
 and Licking County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Paula A. Greene, pro se
10155 Canal Road
Hebron, Ohio 43025

For the County Appellees - Robert L. Becker
Licking County Prosecuting Attorney
Dennis E. Dove
Assistant Prosecuting Attorney
20 South Second Street
4th Floor
Newark, Ohio 43055

Entered April 8, 2005

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

This matter comes on to be considered by the Board of Tax Appeals pursuant to a notice of appeal filed herein by the above-named appellant from a decision of the Licking County Board of Revision (“BOR”), wherein said board reinstated CAUV status for approximately 9.67 acres for tax year 2003, and denied reinstatement of CAUV status and recoupment charges for tax year 2002.

Under date of February 7, 2005, counsel for the county appellees filed herein a “motion to dismiss” the instant appeal for lack of jurisdiction. The motion states in part:

“County Appellees believe that Appellant’s appeal must fail upon jurisdictional grounds. Section 5715.11 of the Ohio Revised Code states that ‘[t]he 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*.’” (emphasis added). It is generally understood from this statutory language that a county board of revision has no authority or jurisdiction to hear a complaint or to grant any relief for any year prior to the ‘then current year.’ The Ohio Supreme Court has recognized this to be true in *Swetland Co. v. Evatt* (1941), 139 Ohio St. 6, by stating that the jurisdiction of a county board of revision to hear complaints relating to the valuation or assessment of real property is *limited* to correcting the valuation or assessment of the real property for the then current year set out in the complaint.” *Id.* at 2.

The appellant’s reply in opposition to the motion states that when she received notice from the auditor’s office that the acreage was being removed from CAUV and recoupment charges were being levied, she was going through a difficult divorce. She was not aware that she needed to file a complaint regarding this determination. Appellant claims that when the BOR determined that the subject acreage was entitled to CAUV status for 2003, the BOR should have addressed the CAUV status for 2002 and the recoupment charges.

This matter is considered by the Board of Tax Appeals upon the notice of appeal, the statutory transcript certified to this board by the BOR, the motion, and reply memorandum.

R.C. 5713.32 provides that if the auditor determines that land is not devoted exclusively to agricultural use, a “complaint against such determination may be made in the manner prescribed in section 5715.19 of the Revised Code.” R.C. 5715.19 provides that 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. In the present case the current tax year in issue is 2002. Therefore, the complaint regarding the CAUV status and recoupment charge for 2002 had to be filed by March 31, 2003. The appellant has acknowledged and the record reflects that no complaint was filed with the county auditor by March 31, 2003.

In *Big Walnut, Inc. v. Franklin Cty. Bd. of Revision* (Oct. 30, 1984), BTA No. 1982-A-1082, unreported, the appellant argued that land which it purchased in 1981 should have been valued at its current agricultural use starting from 1961. We stated :

“The Board of Tax Appeals has searched Revised Code Chapter 57 in vain for some authority to substantiate appellant’s position. The relevant statutes contemplate complaints filed strictly for the current year or ensuing tax years. *** No authority exists to the effect that a complaint as to the assessment of real property may be retroactively effective.” (Emphasis added.) *Id.* at 4.

See, also, *Wortman and Johnson v. Licking Cty. Bd. of Revision* (Aug. 3, 1993) BTA No. 1992-M-1040, unreported.

Based on the foregoing, we find that the BOR’s determination was correct, and this board has no jurisdiction to consider the CAUV status and

recoupment charges for tax year 2002. Consequently, we find the appellee's motion to dismiss has merit and must be granted. It is the order of the Board of Tax Appeals that the above-captioned appeal be dismissed.

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