

OHIO BOARD OF TAX APPEALS

Trimbach Real Estate,)
) CASE NOS. 2004-G-864, 2004-G-865
 Appellant,) 2004-G-866, 2004-G-867
) 2004-G-868
 vs.)
) (REAL PROPERTY TAX)
 Montgomery County Board of Revision,)
 Montgomery County Auditor, and) DECISION AND ORDER
 Dayton City School District)
 Board of Education,)
)
 Appellees.)

APPEARANCES:

- For the Appellant - Jablinski, Folino, Roberts & Martin
Sean H. Harmon
John H. Stachler
214 W. Monument Avenue
P.O. Box 10068
Dayton, Ohio 45402

- For the County Appellees - Mathias H. Heck, Jr.
Montgomery County Prosecuting Attorney
Douglas M. Trout
Assistant Prosecuting Attorney
301 West Third Street, 5th Floor
P.O. Box 972
Dayton, Ohio 45402

- For the Appellee Bd. of Edn. - David C. DiMuzio, Inc.
David C. DiMuzio
1900 Kroger Bldg.
1014 Vine Street
Cincinnati, Ohio 45202

Entered March 11, 2005

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

These causes and matters are now considered by the Board of Tax Appeals pursuant to motions to dismiss, filed herein by counsel for the county

appellees and the Dayton City School District Board of Education (“BOE”).¹ The basis of the motions is that the appellant failed to file a notice of appeal for each matter with the Montgomery County Board of Revision (“BOR”) as required by R.C. 5717.01, thereby failing to invoke the jurisdiction of this board.

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 BOR mailed the decisions in the instant matters by certified mail to all parties on August 13, 2004. The appellant’s notices of appeal were filed with this board on September 13, 2004.² The statutory transcript reflects that no copies of the notices of appeal were filed with the BOR. Counsel for the appellant has not responded to the motion to dismiss. Therefore, it is reasonable to assume that the appellant does not contest the facts set forth in the motion.

In the present case, the record reflects that no notices of appeal were timely filed with the BOR. The requirements of R.C. 5717.01 are specific and

¹ Although the BOE’s motion only refers to 2004-G-864, 866, 867, and 868, the county’s motion also makes

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 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 appeals. Therefore, it is the order of the Board of Tax Appeals that the above-captioned matters must be, and hereby are, dismissed.

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reference to 2004-G-865.

² September 12, 2004 fell on a Sunday.