

OHIO BOARD OF TAX APPEALS

Alvin Stockhaus, Jr.,	)	
	)	
Appellant,	)	CASE NO. 2004-T-1088
	)	
vs.	)	(REAL PROPERTY TAX)
	)	
Cuyahoga County Board of Revision	)	DECISION AND ORDER
and the Cuyahoga County Auditor,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant -	Alvin Stockhaus, Jr., pro se 22952 Mastick Road # 201 Fairview Park, Ohio 44126
For the County Appellees -	William D. Mason Cuyahoga County Prosecuting Attorney Timothy J. Kollin Assistant Prosecuting Attorney Courts Tower, 8th Floor 1200 Ontario Street Cleveland, Ohio 44113

Entered April 8, 2005

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

The Board of Tax Appeals considers this matter following issuance of an order requiring appellant, Alvin Stockhaus, Jr., to show cause why this appeal should not be dismissed. No response to our order has been received within the time specified thereby.

The record establishes that Mr. Stockhaus filed the subject notice of appeal with the Board of Tax Appeals on October 7, 2004.<sup>1</sup> The transcript certified to the BTA on December 10, 2004 by the Cuyahoga County Auditor specifies that notice of the BOR's decision was mailed by certified mail to the complainant on September 9, 2004. See R.C. 5715.20. In addition, the auditor has certified that no copy of the notice of appeal has been filed with the BOR.

R.C. 5717.01 sets forth the requirements for bringing an appeal before the Board of Tax Appeals as follows:

“An appeal from a decision of a 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 division (A) of 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.* If notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing.” (Emphasis added.)

The requirements of R.C. 5717.01 must be strictly complied with before the subject matter jurisdiction of the Board of Tax Appeals may be invoked. *Austin Co. v. Cuyahoga Cty. Bd. of Revision* (1989), 46 Ohio St.3d 192; *American Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147. One of those requirements is that

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<sup>1</sup> The notice of appeal was mailed to the BTA by U.S.P.S. certified mail on October 7, 2004, giving the notice of appeal a deemed filing date of the date of mailing. R.C. 5717.01. This board physically received the notice of appeal on October 12, 2004.

the notice of appeal must be filed with both the Board of Tax Appeals and the board of revision within thirty days after the certified mailing of the board of revision's decision. Failing to comply with the requirement will lead to the dismissal of the appeal. *Austin Co.*, supra; *Akron Standard Div. v. Lindley* (1984), 11 Ohio St.3d 10.

Based upon our review of the record, we are constrained to find that Mr. Stockhaus' notice of appeal was not filed with the BOR, as mandated by R.C. 5717.01. As Mr. Stockhaus failed to properly perfect an appeal to the Board of Tax Appeals, the board orders that BTA No. 2004-T-1088 be, and the same hereby is, dismissed.

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