

OHIO BOARD OF TAX APPEALS

Brett A. Baldwin,)	CASE NO. 2005-B-27
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Cuyahoga County Board of Revision)	
and the Cuyahoga County Auditor,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant	- Brett A. Baldwin, pro se 4626 Greenwold Road South Euclid, Ohio 44121
For the County Appellees	- William D. Mason Cuyahoga County Prosecuting Attorney Timothy J. Kollin Assistant Prosecuting Attorney Courts Tower, Ninth Floor 1200 Ontario Street Cleveland, Ohio 44113

Entered June 24, 2005

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

On February 18, 2005, this board issued an order requiring appellant, Brett A. Baldwin, to show cause as to why this appeal should not be dismissed for failure to timely file the notice of appeal.

Mr. Baldwin's response, filed herein on February 28, 2005, reads as follows:

"I am writing this letter in response to a notice of tax appeal that was sent by myself and denied by the Board of Tax appeals because the board received it 2 weeks after a 30-day appeal response period.

“I am writing to ask the Cuyahoga board of revision not to dismiss my appeal in response to a letter sent by the Ohio board of tax appeals on February 18, 2005 purely on the basis of receiving my appeal 2 weeks late.

“I am asking that my appeal not be dismissed due to reasonable doubt and factual data pertaining to the assessment of the value of my property. This data would include any upgrades or features of the property in question with comparison to my neighbors and the general area I reside in. I have already experienced a 20 percent plus increase in my property tax assessments in a period of less than 3 years.”

The record before us establishes that Brett A. Baldwin filed the subject notice of appeal with the Board of Tax Appeals on January 7, 2005. The transcript certified to the BTA by the Cuyahoga County Auditor specifies that notice of the BOR’s decision was mailed by certified mail to the complainant on November 16, 2004. See R.C. 5715.20. Mr. Baldwin signed for the decision on November 18, 2004. A copy of the notice of appeal was filed with the BOR on January 4, 2005.

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 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 the foregoing, we are constrained to find that Mr. Baldwin’s notice of appeal was filed with this board and the BOR after the time period mandated by R.C. 5717.01. As Mr. Baldwin failed to properly perfect an appeal to the Board of Tax Appeals, the board orders that BTA No. 2005-B-27 be, and the same hereby is, dismissed.

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