

OHIO BOARD OF TAX APPEALS

Jacobs West St. Clair Ltd. Part.,)
)
 Appellant,) (CASE NO. 2005-B-95)
) (REAL PROPERTY TAX)
)
 vs.) DECISION AND ORDER
)
 Cuyahoga County Board of Revision,)
 Cuyahoga County Auditor, and the)
 Cleveland Municipal School District)
 Board of Education,)
)
 Appellees.)

APPEARANCES:

For the Appellants - Karen H. Bauernschmidt Co., LPA
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For the County Appellees - William D. Mason
Cuyahoga County Prosecuting Attorney
Timothy J. Kollin
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For the Appellee Board of Education - Britton, Smith, Peters & Kalail Co., LPA
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Entered March 18, 2005

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

The above-captioned appeal is now considered by the Board of Tax Appeals following a review of matters pending on the board's docket. Appellant's

notice of appeal challenges the jurisdiction of the Cuyahoga County Board of Revision to render its determination dated January 3, 2005.

The relevant facts of the matter are as follows: Appellant filed an appeal from a decision of the BOR with the Board of Tax Appeals on May 16, 2003 for tax year 2000.¹ A decision was issued by this board on November 5, 2004 whereby we remanded the matter to the BOR with instructions to dismiss the subject complaint and reinstate the values determined by the Cuyahoga County Auditor. *Jacobs West St. Clair Limited Partnership v. Cuyahoga Cty. Bd. of Revision* (Nov. 5, 2004), BTA No. 2003-T-609, unreported. On December 3, 2004, appellant appealed said decision to the Ohio Supreme Court.² No decision has been rendered by that court to date. However, by letter dated January 3, 2005, the BOR, acting upon the aforementioned November 5, 2004 decision by this board, dismissed appellant's complaint and reinstated the values determined by the Cuyahoga County Auditor.

On January 21, 2005, appellant appealed the January 3, 2005 BOR decision to this board, stating on its notice of appeal:

“The Board of Revision did not have jurisdiction to issue a decision on this property. The BOR decision cited BTA Case No. 03-T-609 which is pending before the Ohio Supreme Court in Case No. 04-2008.”

¹ BTA No. 2003-T-609.

² Ohio Supreme Court Case No. 04-2008.

It appears that this board's decision of November 5, 2004 was not final and conclusive as a timely appeal from said decision was filed with the Ohio Supreme Court pursuant to R.C. 5717.04 and remains pending.

Accordingly, it is the finding of this board that the BOR was without jurisdiction to issue its January 3, 2005 decision. Accordingly, this matter is remanded to the BOR with instructions that it vacate said decision.

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