SUPREME COURT OF OHIO

HK New Plan Exchange Property Owner II, L.L.C. v. Hamilton County Board of Revision

121 Ohio St. 3d 1224, 2009-Ohio-1110 (Ohio 2009) · No. No. 2008-1782 · Decided March 18, 2009

SUMMARY

The Supreme Court of Ohio denied a motion to dismiss an appeal from the Board of Tax Appeals. It held that serving the Tax Commissioner satisfied R.C. 5717.04 even without explicitly naming the commissioner as an appellee, and that service on a new property owner was not required when the owner was not shown in the record before the Board of Tax Appeals.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Thomas J. Moyer, Chief Justice; Lundberg Stratton, J.; Pfeifer, J.; O'Connor, J.; O'Donnell, J.; Lanzinger, J.; Cupp, J.
JURISDICTION	Ohio
DECIDED	March 18, 2009
DOCKET	No. 2008-1782
DISPOSITION	other
PROCEDURAL POSTURE	Appeal as of right from a decision of the Ohio Board of Tax Appeals, considered on the appellee's motion to dismiss for lack of jurisdiction.
STANDARD OF REVIEW	De novo review of the jurisdictional requirements governing an appeal from the Board of Tax Appeals.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion
PARTIES	Cincinnati School District Board of Education v. HK New Plan Exchange Property Owner II, L.L.C., Hamilton County Board of Revision

TOPICS

tax court procedure · appellate procedure · appellate jurisdiction · statutory interpretation · property tax

PRACTICE AREAS

taxation · tax appeals · appellate procedure

QUESTIONS PRESENTED

1. Whether service of a notice of appeal on the Tax Commissioner satisfies R.C. 5717.04 when the Commissioner is not explicitly named as an appellee.
2. Whether R.C. 5717.04 required the appellant to serve a new property owner who was not shown as the owner in the record before the Board of Tax Appeals when the Board issued its decision.

HOLDINGS

1. Serving the Tax Commissioner with the notice of appeal satisfies R.C. 5717.04 even when the Commissioner is not explicitly named as an appellee.
2. R.C. 5717.04 does not require an appellant to serve a new property owner who was not shown in the record before the Board of Tax Appeals when the Board issued its decision.

KEY QUOTATIONS

> *"R.C. 5717.03(B) does not require the BTA to certify its decision to a new owner of the property unless the record before the BTA shows that person to be the owner of the property."* (¶ 4)

FACTUAL BACKGROUND

HK New Plan owned the property involved in the Board of Tax Appeals proceedings and sold it to a new owner in early August 2008. The Board of Tax Appeals issued its decision on August 12, 2008, but the record before the Board did not disclose the sale when the decision was issued. The Cincinnati School District Board of Education filed its appeal on September 9, 2008, serving the Tax Commissioner but not the purchaser.

PROCEDURAL HISTORY

The Board of Tax Appeals issued its decision on August 12, 2008. The Cincinnati School District Board of Education appealed to the Supreme Court of Ohio on September 9, 2008. HK New Plan moved to dismiss, arguing that the appellant failed to serve the Tax Commissioner and a new owner of the property as required by R.C. 5717.04.

DISPOSITION

other

CASES CITED

- St. Bernard Self-Storage, L.L.C. v. Hamilton Cty. Bd. of Revision, 111 Ohio St. 3d 1467, 2006-Ohio-5625, 855 N.E.2d 1257
- Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision, 114 Ohio St. 3d 1224, 2007-Ohio-4007, 871 N.E.2d 602