

1 Columbia Toledo Corporation, Appellant, v. Lucas County Board of  
2 Revision et al., Appellees.  
3 [Cite as Columbia Toledo Corp. v. Lucas Cty. Bd. of Revision (1996), \_\_\_\_\_  
4 Ohio St.3d \_\_\_\_\_.]

5 *Taxation -- Real property valuation -- Appeal to Board of Tax*  
6 *Appeals dismissed when R.C. 5715.19(A)(2) not complied*  
7 *with.*

8 (No. 95-2676 -- Submitted June 27, 1996 -- Decided August 21,  
9 1996.)

10 Appeal from the Board of Tax Appeals, No. 94-K-815.

11 Columbia Toledo Corporation (“Columbia”), appellant, filed a  
12 complaint with the Lucas County Board of Revision (“BOR”) to contest its  
13 real property tax valuation for the tax year 1993. Prior to the filing of its  
14 1993 complaint, Columbia had filed a complaint for the tax year 1991. The  
15 three-year interim period for Lucas County covered the tax years 1991,  
16 1992 and 1993.

17 The only witness appearing before the BOR on behalf of Columbia  
18 was Les Fleckenstein, an administrative assistant with Columbia Sussex  
19 Corporation, the owner of Columbia.

1           The BOR dismissed Columbia’s complaint for failure to comply with  
2 R.C. 5715.19(A)(2), which permits the filing of only one complaint within a  
3 three-year interim period unless certain criteria are met. Columbia appealed  
4 the BOR’s decision to the Board of Tax Appeals (“BTA”). The county filed  
5 a motion with the BTA to dismiss the appeal because the complaint was the  
6 second Columbia had filed within the same three-year interim period, and  
7 the complaint failed to comply with R.C. 5715.19(A)(2). The BTA treated  
8 the county’s motion to dismiss as a request to affirm the BOR’s decision.  
9 The BTA affirmed the BOR’s decision, stating that Columbia had not  
10 complied with R.C. 5715.19(A)(2) when it filed its complaint with the BOR.

11           This cause is now before this court upon an appeal as of right.

12           *Baker & Hostetler* and *George H. Boerger*, for appellant.

13           *Anthony G. Pizza*, Lucas County Prosecuting Attorney, and *Andrew J.*

14 *Barone*, Assistant Prosecuting Attorney, for appellees Lucas County Board

15 of Revision and Lucas County Auditor.

16           *Per Curiam*. The statute in question, R.C. 5715.19(A)(2), provides:

17           “No person, board, or officer shall file a complaint against the

18 valuation or assessment of any parcel that appears on the tax list if it filed a

1 complaint against the valuation or assessment of that parcel for any prior tax  
2 year in the same interim period, *unless* the person, board, or officer *alleges*  
3 that the valuation or assessment should be changed due to one or more of  
4 the following circumstances that occurred after the tax lien date for the tax  
5 year for which the prior complaint was filed and that the circumstances were  
6 not taken into consideration with respect to the prior complaint:

7           “\* \* \*

8           “(d) An increase or decrease of at least fifteen per cent in the  
9 property’s occupancy has had a substantial economic impact on the  
10 property.” (Emphasis added.)

11           R.C. 5715.19(A)(2) provides that no second complaint shall be filed  
12 in the same interim period by the same person, board or officer for the same  
13 property “unless” certain allegations are made. The complaint in question  
14 was the second complaint filed in the same interim period on the same  
15 property. In *Gammarino v. Hamilton Cty. Bd. of Revision* (1994), 71 Ohio  
16 St.3d 388, 390, 643 N.E.2d 1143, 1144, we held that the BTA should have  
17 granted the auditor’s motion to dismiss because in his second complaint

1 Gammarino had “failed to assert the applicability of any of the  
2 circumstances enumerated in R.C. 5715.19(A)(2)(a) through (d).”

3           When Columbia filed its complaint against valuation for the tax year  
4 1993, it answered the question on the complaint form as to why the increase  
5 or decrease was justified by stating: “The income from this property does  
6 not justify the current taxable value (see letter & data attached).” Attached  
7 to the complaint were four pages of data printout of profit and loss  
8 statements for the years 1990 through 1993, a one page-summary describing  
9 the property, and a one-page letter that summarized and listed selected  
10 financial data for the years 1988 through 1993. No occupancy data was set  
11 forth in the letter. The letter merely stated that “[the] property has been  
12 suffering from low occupancy over the years and the problem has continued  
13 from 1990 [t]hrough 1993 as indicated by the financial analysis for the  
14 property from 1988 through 1993.”

15           It is Columbia’s contention that the data and attachments to the  
16 complaint were sufficient to allege that it was filing under R.C.  
17 5715.19(A)(2)(d) because the data, if analyzed, would disclose that there  
18 had been an increase or decrease in the property’s occupancy of at least

1 fifteen percent that had a substantial economic impact on the property. We  
2 disagree.

3 Contrary to Columbia's contention, it is not the responsibility of a  
4 county board of revision to analyze raw data submitted by a taxpayer to  
5 determine whether any of the circumstances enumerated in R.C.  
6 5715.19(A)(2) is applicable. The statute clearly places the burden on the  
7 taxpayer to allege one of the enumerated circumstances in order to file a  
8 second complaint in the same interim period. After the taxpayer has alleged  
9 at least one of the circumstances set forth in R.C. 5715.19(A)(2), then a  
10 county board of revision may undertake to analyze the data to verify the  
11 taxpayer's allegations.

12 The language of R.C. 5715.19(A)(2) is very simple and it is very clear  
13 -- there can be no second appeal in the same interim period *unless* one of the  
14 enumerated circumstances is alleged. In *Am. Restaurant & Lunch Co. v.*  
15 *Glander* (1946), 147 Ohio St. 147, 34 O.O. 8, 70 N.E.2d 93, we held in  
16 paragraph one of the syllabus: "Where a statute confers the right of appeal,  
17 adherence to the conditions thereby imposed is essential to enjoyment of the  
18 right conferred." Likewise, in this case, the failure to meet the requirement

1 of alleging at least one of the four circumstances set forth in R.C.  
2 5715.19(A)(2) deprived the county board of revision of the jurisdiction to  
3 hear the second complaint filed in the same interim period.

4 Based on the foregoing we find the decision of the Board of Tax  
5 Appeals to be reasonable and lawful, and it is therefore affirmed.

6 *Decision affirmed.*

7 MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK  
8 and STRATTON, JJ., concur.

9