

**BEREA CITY SCHOOL DISTRICT BOARD OF EDUCATION, APPELLEE, ET AL. v.  
CUYAHOGA COUNTY BOARD OF REVISION ET AL., APPELLEES; MANLAW  
INVESTMENT COMPANY, LTD., APPELLANT.**

**[Cite as *Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*,  
111 Ohio St.3d 1219, 2006-Ohio-5601.]**

*Appeal from Board of Tax Appeals — Tax Commissioner not timely served with  
notice of appeal — Appeal dismissed.*

(No. 2006-1526 — Submitted October 3, 2006 — Decided November 1, 2006.)

APPEAL from the Board of Tax Appeals, Nos. 2002-V-2595 and 2002-V-2800.

ON MOTION TO DISMISS

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{¶ 1} Appellant has filed a notice of appeal from a decision of the Board of Tax Appeals (“BTA”) and a supplemental certificate of service. Appellee Berea City School District Board of Education has filed a motion to dismiss the appeal and a motion to strike the supplemental certificate of service. Appellant has also filed a motion to suspend ruling on the motion to dismiss.

{¶ 2} In *Olympic Steel, Inc. v. Cuyahoga Cty. Bd. of Revision*, 110 Ohio St.3d 1242, 2006-Ohio-4091, 852 N.E.2d 178, the BTA had issued a decision in an appeal from a county board of revision, and we dismissed the appeal therefrom because the appellant had failed to serve the Tax Commissioner who, by operation of R.C. 5717.03(B) and 5717.04, is a party to such appeals. We now hold that the certified-mail service required by R.C. 5717.04 must be initiated within the thirty-day period prescribed by R.C. 5717.04 for the filing of an appeal. For purposes of complying with this requirement, service is "initiated" when the notice of appeal is placed in the mail. In this case, appellant initiated certified mailing of the notice of appeal to the Tax Commissioner after the expiration of

the thirty-day period, and that act failed to comply with the jurisdictional requirement of service under R.C. 5717.04.

{¶ 3} Accordingly, the motion to suspend ruling on the motion to dismiss is denied, the motion to strike is deemed to be a supplemental motion to dismiss, the motions to dismiss are granted on the authority of *Olympic Steel*, and the appeal is dismissed. Appellant's motion to add the Tax Commissioner as an appellee is denied as moot.

MOYER, C.J., RESNICK, LUNDBERG STRATTON, O'CONNOR, O'DONNELL and LANZINGER, JJ., concur.

PFEIFER, J., dissents for the reason stated in his dissent in *Olympic Steel, Inc. v. Cuyahoga Cty. Bd. of Revision*, 110 Ohio St.3d 1242, 2006-Ohio-4091, 852 N.E.2d 178, ¶ 5.

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Kadish, Hinkel & Weibel, Kevin M. Hinkel, and Rita M. Jarrett, for appellee Berea City School District Board of Education.

Siegel, Siegel, Johnson & Jennings Co., L.P.A., Fred Siegel, and Nicholas M.J. Ray, for appellant.

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