

## OHIO BOARD OF TAX APPEALS

First Island Company,	)	
	)	CASE NO. 2004-G-402
Appellant,	)	
	)	(REAL PROPERTY TAX)
vs.	)	
	)	DECISION & ORDER
Ottawa County Board of Revision and	)	
Ottawa County Auditor,	)	
	)	
Appellees.	)	

### APPEARANCES:

For the Appellant	-	Watkins, Bates & Carey, LLP Jessica R. Hamner National City Bank Building 405 Madison Avenue, Suite 1900 Toledo, Ohio 43604-1207
For the County Appellees	-	Rich, Crites & Dittmer James R. Gorry 300 East Broad Street Suite 300 Columbus, Ohio 43215

Entered October 1, 2004

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

This cause and matter came on to be considered by the Board of Tax Appeals upon a motion to dismiss filed herein on August 9, 2004, by counsel for the Auditor of Ottawa County. The basis of the motion is that the person who filed the complaint with the Ottawa County Board of Revision (“BOR”) was not an attorney licensed to practice law in the state of Ohio. Counsel for the appellant filed a motion

in opposition claiming that since the notice of appeal was filed by legal counsel, and this board's standard of review is de novo, we have jurisdiction to consider the merits of the appeal.

In its syllabus in *Sharon Village Ltd. v. Licking Cty. Bd. of Revision* (1997), 78 Ohio St.3d 479, the Supreme Court of Ohio held: "The preparation and filing of a complaint with a board of revision on behalf of a taxpayer constitute the practice of law." In reaching this conclusion, the court affirmed this board's decision ordering the dismissal of a complaint filed with a county board of revision by a non-attorney on behalf of a property owner. See, also, *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156; *C.R. Truman, L.P. v. Cuyahoga Cty. Bd. of Revision* (July 27, 2000), Cuyahoga App. No. 76713, unreported, discretionary appeal denied Apr. 11, 2001.

With respect to the present appeal, counsel for the appellant does not contest the fact that the complaint filed with the board of revision was filed by Todd Blumensaadt, appellant's vice-president who is not an attorney. Rather, counsel argues that even if the complaint filed with the BOR was filed by a non-attorney, we still have jurisdiction over the merits of the appeal. We disagree. This board has consistently held that when a complaint filed with the BOR was jurisdictionally defective, the BOR had no jurisdiction to consider the merits. In *Geiger v. King*, Franklin App. No. 03AP-1228, 2004-Ohio-2137, ¶9, the Tenth District Court of Appeals held:

"It is well-settled that '[a] corporation cannot maintain litigation in propria persona, or appear in court through an officer of the corporation or an appointed agent not admitted to the practice of law.' *Union Savings Assn. v. Home Owners*

*Aid* (1970), 23 Ohio St.2d 60, syllabus. Accordingly, courts have held that a complaint or other pleading undertaken on behalf of a corporation by a non-attorney is a nullity. See, e.g., *Coburn v. Toledo Hosp.* (Jan. 19, 2001), Lucas App. No. L-00-1215; *Talarek v. M.E.Z., Inc.* (Sept. 10, 1998), Lorain App. No. 98CA007088; *Sheridan Mobile Village, Inc. v. Larsen* (1992), 78 Ohio App.3d 203, 205; *Palmer v. Westmeyer* (1988), 48 Ohio App.3d 296, 297; *Bd. of Trustees for the Memorial Civil Ctr. v. Carpenter Co.* (Aug. 9, 1982), Allen App. No. 1-81-38. Accord *Tubalcain Trust v. Cornerstone Constr., Inc.* (May 26, 1994), Franklin App. No. 93APE12-1701 (‘[a] trust, like a corporation, cannot act on its own behalf but, instead, must act through an individual. Since only attorneys can represent another party in litigation before a court, necessarily an attorney must be engaged to represent a trust’). See, also, *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156.”

See *Worthington City School Dist Bd. of Edn.*, supra.

Giving consideration to the record in this matter, we find that the decision of the Ottawa County Board of Revision, dismissing the original complaint for lack of jurisdiction, was correct. Accordingly, it is the decision and order of Board of Tax Appeals that the motion to dismiss must be, and hereby is, granted.

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