

**OHIO BOARD OF TAX APPEALS**

Barry L. Brown, ) CASE NO. 2008-V-2198  
 )  
Appellant, ) (REAL PROPERTY TAX)  
 )  
vs. ) DECISION AND ORDER  
 )  
Lucas County Board of Revision )  
and the Lucas County Auditor, )  
 )  
Appellees. )

APPEARANCES:

For the Appellant - Thomas J. Anderson Jr., pro se  
8960 Geiser Road  
Holland, OH 43528

Notice of Appeal Filed By - Barry L. Brown, pro se  
118 East Third Street  
Perrysburg, OH 43551

For the County Appellees - Julia R. Bates  
Lucas County Prosecuting Attorney  
Carol Bruggeman  
Assistant Prosecuting Attorney  
One Government Center  
Suite 500  
Toledo, OH 43604

Entered June 2, 2009

Ms. Margulies, Mr. Johrendt, and Mr. Dunlap concur.

This appeal is now considered by the Board of Tax Appeals following an interim order issued by this board requiring appellant to show cause as to why the instant appeal should not be dismissed.

In the instant case, a review of the statutory transcript (“S.T.”) indicates that the original complaint was filed on behalf of the appellant “Tom Anderson Jr.”

and signed by Barry L. Brown, who lists himself as the agent of the complainant.<sup>1</sup> S.T. at Ex. A. The subject property is titled to “Thomas J. Anderson, Jr.” Id. at C. There is nothing in the record before the board to indicate that Mr. Brown is a licensed attorney in the state of Ohio, or is otherwise entitled to file the complaint on behalf of another individual.

In his response, Mr. Anderson indicates that Mr. Brown is a member of the corporation that operates a business upon the subject property. Mr. Anderson indicates that while Mr. Brown is not an attorney licensed to practice law in the state of Ohio, Mr. Brown did represent him at hearing before the BOR where both Mr. Brown and Mr. Anderson appeared. Mr. Anderson further states that he received no instructions that Mr. Brown could not represent him before the Lucas County Board of Revision.

In *Sharon Village Ltd. v. Licking Cty. Bd. of Revision* (1997), 78 Ohio St.3d 479, 678 N.E. 2d 932 and *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156, the Supreme Court of Ohio concluded that only individual owners of real property and attorneys-at-law were authorized to prepare and file real property complaints.

In response to *Sharon Village Ltd.*, supra, and *Worthington*, supra, the General Assembly enacted Sub.H.B. 694, 147 Ohio Laws, Part III, 5373 (eff. Mar. 30, 1999). Through that enactment, both R.C. 5715.13 and 5715.19 were amended to

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<sup>1</sup> Mr. Brown further filed a notice of appeal before this board. On the appeal, Mr. Brown lists himself as “partner.” The property record card contained within the statutory transcript reflects that the subject property is not held in the name of any corporate entity; rather, the property is titled to “Thomas J. Anderson, Jr.” S.T. at C.

allow real property complaints to be filed by designated persons who were statutorily authorized to act in a representative capacity, including an officer of a corporation. However, in *C.R. Truman, L.P. v. Cuyahoga Cty. Bd. of Revision* (July 27, 2000), Cuyahoga App. No. 76713, unreported, the Cuyahoga County Court of Appeals found the amendments to R.C. 5715.13 and 5715.19 to be unconstitutional violations of the separation of powers:

“Pursuant to Section 2(B)(1)(g), Article IV of the Ohio Constitution, the Ohio Supreme Court shall have original jurisdiction of ‘admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.’ ‘The Supreme Court has consistently indicated that it alone has the inherent power to regulate, control and define the practice of law in Ohio.’ *Washington Cty. Dept. of Human Serv. v. Rutter* (1995), 100 Ohio App.3d 32, 36, citing to *State ex. rel. Green v. Brown* (1962), 173 Ohio St. 114, 18 O.O.2d 361, 180 N.E.2d 157, paragraph one and two of the syllabus; *Judd v. City Trust & Savings Bank* (1937), 133 Ohio St. 81, 10 O.O. 95, 12 N.E.2d 288, paragraph one of the syllabus. The Ohio Supreme Court has repeatedly held that the filing of a complaint before the Board of Revision constitutes the practice of law. *Sharon Village Ltd. v. Licking County Bd. of Revision* (1997), 78 Ohio St.3d 479 syllabus; *Lakeside Ave. L.P. v. Cuyahoga County Bd. of Revision* (1999), 85 Ohio St.3d 125, 126; *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156, 158. Amended R.C. 5715.19(A) permits persons who are not attorneys or the owners of the property to file complaints before the Board of Revision on behalf of the owner and therefore permits non-attorneys to engage in what has been uniformly recognized as the practice of law.

“The General Assembly has no authority to authorize lay persons to engage in the practice of law in a representative capacity for another entity and the Ohio Supreme Court has taken no action to sanction such conduct. *Washington Cty. Dept. of Human Serv.*, supra at 37; see, also, *Alliance v.[sic] Group, Inc. v. Rosenfield* (1996) 115 Ohio App.3d 380, 387 (the General Assembly may not usurp the constitutionally

granted functions of the Supreme Court set forth in Section 5, Article IV of the Ohio Constitution). The amended version of R.C. 5715.19(A) does exactly that as it allows non-attorneys to practice law. Because the statute clearly violates the separation of powers between the judiciary and legislative branches, the amended statute is unconstitutional.”

This board has previously found on several occasions that the court’s ruling is persuasive, as we do today. See *City of Strongsville, Strongsville Bd. of Edn. and The Glidden Co. v. Cuyahoga Cty. Bd. of Revision*, (Apr. 27, 2001), BTA Nos. 1997-M-300-301, 304-305, 310, 323, unreported. See, also, *Bd. of Edn. of the Whitehall City School District v. Franklin Cty. Bd. of Revision* (March 19, 2002), Franklin App. Nos. 01AP-878, 01AP-879, unreported, where in a factually analogous situation, the Tenth District Court of Appeals affirmed this board’s decision to remand a complaint filed by a non-attorney to the BOR with instructions to dismiss, and found the analysis in *C.R. Truman* to be persuasive authority.

We conclude that such complaint was insufficient to invoke the jurisdiction of the Lucas County Board of Revision. Therefore, considering the record before us, it is the decision and order of the Board of Tax Appeals that this matter be remanded to the Lucas County Board of Revision with instructions to dismiss the original complaint and to reinstate the valuation originally assigned by the auditor.

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