

TS Pearl Partners,)	CASE NO. 97-K-1494
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	ORDER
)	
Cuyahoga County Board of)	(Requiring Appellee
Revision, the Cuyahoga)	Board of Education
County Auditor and the Parma)	to Show Cause)
Board of Education,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant	-	Fred Siegel Fred Siegel Co., L.P.A. Suite 2700 1900 East Ninth Street Cleveland, Ohio 44114-3499
For the County Appellees	-	Stephanie Tubbs Jones Cuyahoga County Prosecuting Attorney Courts Tower-Eighth Floor 1200 Ontario Street Cleveland, Ohio 44113
For the Appellee Parma Board of Education	-	Timothy J. Armstrong Deborah J. Papushak Armstrong, Mitchell, Damiani & Zaccagnini 1725 The Midland Building 101 Prospect Avenue, West Cleveland, Ohio 44115-1091

Entered December 19, 1997

The above-captioned appeal is now considered, sua sponte, by the Board of Tax Appeals following a review of matters presently pending on the Board's docket. Recently, 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 nonattorney on behalf of a property owner.

Within the body of its decision, the court in Sharon Village continued, stating:

"R.C. 5715.13 states that a board of revision may make no decrease in 'any valuation complained of unless the party affected thereby or his agent makes and files with the board a written application therefor, verified by oath, showing the facts upon which it is claimed such decrease should be made.' (Emphasis added.) We interpret the term 'agent' as used in R.C. 5715.13 to include the affected party's attorney and, in the case of a corporation, a regularly connected agent who is an attorney authorized by the corporation and possessing sufficient knowledge to verify the facts averred in the complaint." Id. at 483.

Recently, in Bd. of Edn. of the Orange City School Dist. v. Cuyahoga Cty. Bd. of Revision (Nov. 21, 1997), B.T.A. Nos. 96-P-1744, et seq., unreported, this Board applied the reasoning set forth in Sharon Village to a scenario in which the treasurer of an affected board of education had filed a complaint on its behalf seeking to obtain an increase in the value assigned certain property. Although the county board of revision had proceeded to determine value, we ultimately concluded that it lacked jurisdiction to do so because the complaint had not been prepared and filed by an attorney on the complainant's behalf, a "body politic and corporate in law."

The facts of the present case appear substantially similar to those of the preceding case in that the "counter-complaint" was purportedly filed on behalf of the appellee Parma Board of Education ("BOE") by "Jerry G. Zawadiwsky, Treasurer." Attached to the counter-complaint appears "Resolution 1996-9" which provides in part:

"AUTHORIZING THE TREASURER OR HIS DESIGNEE TO ACT AS AGENT FOR THE BOARD OF EDUCATION IN FILING REAL ESTATE TAX COMPLAINTS FOR 1995

"THEREFORE, BE IT RESOLVED, That the Board of Education of the Parma City School District hereby authorizes its Treasurer or his designee to act as agent for the Board of Education to file and sign real estate tax complaints for the purpose of increasing the assessed valuations which are reflected as well below the 35% ratio resulting from sales of such properties."

Following the attestation lines, which were signed by the BOE's treasurer and president, the treasurer proceeded to make the following "designation":

"I designate Sam S. Canitia as Real Estate Appraiser and Consultant for the Parma Board of Education for the year 1995, for Real Estate Tax Complaints for 1995."

On the face of its counter-complaint, the BOE's treasurer then identified its appraiser as Sam D. Canitia, who, in fact, notarized the BOE's counter-complaint. At the hearing before the BOR, appellant was represented by its attorney while the BOE was "represented" by Canitia. At that time, Canitia

presented a "Valuation Analysis" setting forth his opinion as to the subject property's value.

Neither the BOE's counter-complaint nor the remainder of the record suggests that its treasurer is an attorney authorized to practice law. R.C. 5715.19 provides that an affected board of education may appear as a party to proceedings before a county board of revision only where it has filed a complaint. In light of this Board's decision in Bd. of Edn of the Orange City School Dist., supra, it appears that the BOE was not a proper participant in the BOR's proceedings and, on appeal to this Board, may not be considered a "party."

It is therefore the order of this Board that the Parma Board of Education show cause why it should not be precluded from participating further in this appeal and why this Board should not order the evidence presented on its behalf before the Cuyahoga County Board of Revision stricken from consideration. All parties who wish to be heard upon the question of the legal sufficiency of the counter-complaint to establish appellee Parma Board of Education as a party to the proceedings before the Cuyahoga County Board of Revision and, in turn, this Board, shall file a written response to this Order within twenty-one days of its issuance.