

OHIO BOARD OF TAX APPEALS

Tallmadge Board of Education,)
)
 Appellant,) CASE NO. 97-K-1195
)
 vs.) (REAL PROPERTY TAX)
)
 Summit County Board of) ORDER
 Revision, Summit County)
 Auditor and the SidCo) (Scheduling Jurisdictional Hearing)
 Associates, LLC,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Deborah J. Papushak
 Armstrong, Mitchell, Damiani
& Zaccagnini
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 101 Prospect Avenue, West
 Cleveland, Ohio 44115-1091

For the County Appellees - Michael T. Callahan
 Summit County Prosecuting Attorney
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 159 South Main Street
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For the Appellee Property Owner - James E. Davis
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Entered May 7, 1999

This appeal is now considered by the Board of Tax Appeals following the filing of a response and a supplemental response to our Order requiring "that the appellee property owner show cause why this Board should not vacate the decision of

the Summit County Board of Revision [("BOR")] granting a decrease in the subject property's value and remand this matter with instructions that it dismiss the decrease complaint purported filed on the owner's behalf." *Id.* at 3. No response has been filed on behalf of the appellees.

Our earlier Order was premised upon the Supreme Court's decision in *Sharon Village Ltd. v. Licking Cty. Bd. of Revision* (1997), 78 Ohio St.3d 479, wherein the court held in its syllabus: "The preparation and filing of a complaint with a board of revision on behalf of a taxpayer constitute the practice of law."¹ In our earlier Order, we described those existing facts which suggested that the underlying complaint may be defective:

"With respect to the present appeal, a review of the statutory transcript reveals that the original complaint requesting a decrease in the subject property's valuation was filed on behalf of the appellee property owner, SidCo Associates, LLC, by 'Norman D. Belliveau Member SidCo Associates, LLC.' Neither the complaint nor the remainder of the existing record suggests that Belliveau is an attorney authorized to make such filing." *Id.* at 2.

In the response to our Order, the appellee property owner asserts that an attorney assisted in the preparation and filing of said complaint. If true, the complaint

¹ 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.

may be sufficient to vest jurisdiction in the BOR under the guidelines recently announced by the Supreme Court in *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156. In that decision, involving five consolidated appeals, the court considered the jurisdictional sufficiency of several complaints, one of which had been prepared and filed by an attorney but signed by a property manager. In this regard, the Supreme Court held:

"In case No. 97-1880, Treneff, an attorney, *prepared and filed* or caused to be filed the complaint at issue. This satisfies the requirements of *Sharon Village*. The fact that Ameritech Corporation's property tax manager, Gregory A. Stein, reviewed and signed the complaint is not fatal. Stein simply reviewed the complaint to verify the accuracy of the information contained therein, and he signed the complaint for that same purpose at the direction of Treneff. Stein did not engage in the practice of law. Accordingly, we find that the Franklin County Board of Revision had jurisdiction to consider the complaint by 'Ameritech,' a registered trade name under which Ohio Bell, the property owner, may 'commence *** an action,' R.C. 1329.10(B), since the complaint was prepared and filed by an attorney on Ohio Bell's behalf." *Id.* at 160.

Given the allegations made by the appellee in response to this Board's Order, it is considered appropriate to schedule this matter for hearing for the limited purpose of ascertaining the extent of counsel's involvement in the "preparation and filing" of the underlying complaint. Said hearing shall proceed in the offices of the Board of Tax Appeals, 24th Floor of the Rhodes State Office Tower, 30 East Broad Street, Columbus, Ohio at **9:30 a.m. on Friday, June 4, 1999.**