

OHIO BOARD OF TAX APPEALS

Louis Stile,) CASE NO. 97-K-1307
)
Appellant,) (REAL PROPERTY TAX)
)
vs.) ORDER
)
Summit County Board of) (Scheduling Jurisdictional Hearing)
Revision and the Summit)
County Auditor,)
)
Appellees.)

APPEARANCES:

For the Appellant - J. Kieran Jennings
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1900 East Ninth Street
Cleveland, Ohio 44114-3499

For the County Appellees - Michael T. Callahan
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Entered May 7, 1999

This appeal is now considered by the Board of Tax Appeals following the filing of appellant's response to our Order requiring "that appellant show cause why this Board should not order the Summit County Board of Revision [("BOR")] to dismiss the decrease complaint filed on appellant's behalf and to retain the value originally assigned the subject property by the Summit County Auditor." *Id.* at 3. No response has been filed on behalf of the county 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 Also considered relevant to these particular proceedings was the decision in *Mahoning Cty. Bar Assn. v. Alexander* (1997), 79 Ohio St.3d 1220, in which the court stated:

"[W]e find that by instituting legal proceedings and by appearing in court *pro se* as trustee for a trust, respondent in this capacity represented the interest of the trust (a separate legal entity), and of other persons, and, thus engaged in the practice of law. *In re Ellis* (1971), 53 Haw. 23, 29, 487 P.2d 286, 290; *Back Acres Pure Trust v. Fahlander* (1989), 233 Neb. 28, 29, 443 N.W.2d 604, 605." *Id.* at 1221.

See, also, *The Dorcas W. Burns Trust v. Ashtabula Cty. Bd. of Revision* (Sept. 12, 1997), B.T.A. 97-K-710, unreported (concluding that a complaint, filed by a trustee of trust in whose name the property was actually owned, failed to vest jurisdiction in the county board of revision to consider issue of valuation). Compare *Gammarino v. Hamilton Cty. Bd. of Revision* (1998), 84 Ohio St.3d 155 (despite suggestion that property was held in trust, if a property is not actually held in trust but is instead held individually, a complaint should not be dismissed when the complainant identifies himself as a trustee).

In our Order, we briefly set forth the pertinent facts of this appeal as follows:

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

“With respect to the present appeal, included within the statutory transcript certified to this Board by the Summit County Auditor is a copy of the complaint requesting a decrease in the subject property's valuation. That complaint identifies the property owner as ‘Louis Stile’ and was likewise signed by that individual. However, further review of the transcript suggests that the subject property is actually titled in the name of appellant as trustee. See property record card ‘Stile Louis Trustee.’

“Neither the complaint nor the remainder of the record, however, suggests that Mr. Stile is an attorney authorized to practice law.”

In his response to our Order, appellant admits that the subject property is held in trust and that the individual signing the complaint is a nonattorney, trustee of the trust. However, appellant continues in his response to assert that his son is an attorney and that he assisted in the preparation and filing of said complaint. If true, the complaint 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, *Treneck*, 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

Footnote contd. _____

possessing sufficient knowledge to verify the facts averred in the complaint." *Id.* at 483.

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 appellant in his 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 **9:00 a.m. on Friday, June 4, 199** . **9**