

OHIO BOARD OF TAX APPEALS

Noah Hayden Ltd., Cuyahoga Metropolitan Housing Authority (Successor in Interest),)	CASE NO. 98-G-502
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Cuyahoga County Board of Revision, Cuyahoga County Auditor, and East Cleveland City School District Board of Education,)	(Substitution of Party;
)	Dismissing the Board of
)	Education as a Party)
)	
Appellees.)	

APPEARANCES:

For the Appellant -	Fred Siegel Fred Siegel Co., L.P.A. 30195 Chagrin Blvd. Suite 205 Cleveland, Ohio 44124-5703
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For the County Appellees -	William D. Mason Cuyahoga County Prosecuting Attorney By: Timothy J. Kollin Assistant Prosecuting Attorney Eighth Floor, Courts Tower 1200 Ontario Street Cleveland, Ohio 44113
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For the Appellee - BOE	James H. Hewitt, III Coaxum & Hewitt The Huntington Building, Suite 655 925 Euclid Avenue Cleveland, Ohio 44115-1405
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Entered: September 1, 2000

Mr. Johnson, Ms. Jackson and Mr. Manoranjan concur.

This appeal is now considered by the Board of Tax Appeals following the Board's *sua sponte* review of its docket. In this review, the Board determined that the East Cleveland City School District Board of Education's ("BOE") counter-complaint

was signed by its treasurer, Curtis Griggs. No claim has been made by the BOE that Mr. Griggs is an attorney.

In the Supreme Court of Ohio's decision in *Sharon Village Ltd. v. Licking Cty. Bd. of Revision* (1997), 78 Ohio St.3d 479, 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." Then, in *Bd. of Edn. of the Orange City Sch. 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* 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."

Although this Board would normally convene a hearing and/or assign briefs to allow the parties to put their positions on the record, in light of the Supreme Court's pronouncement in *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156, the Board finds it unnecessary to hold a hearing or entertain briefs. Such decision involved five consolidated appeals, in which the Court considered the jurisdictional sufficiency of two counter-complaints which were filed on behalf of the board of education by a treasurer, who was not a lawyer. In this regard, the Supreme Court held:

"The Cleveland Heights/University Heights Board of Education is a body 'politic and corporate' and, as such, is 'capable of suing and being sued.' R.C. 3313.17. It is a quasi-corporation and is amenable to the rules governing litigants. In case Nos. 98-758 and 98-984, the school board's treasurer, Robert Burmeister, prepared, signed, and filed with the Cuyahoga County Board of Revision several counter-complaints on behalf of the school board. Burmeister is not a lawyer. Burmeister therefore engaged in the unauthorized practice of law in having prepared and

filed complaints on behalf of the school board. The school board should have engaged an attorney for that purpose. See, generally, *Sharon Village* and *Union Savings Assn. [v. Home Owners Aid, Inc.]* (1970), 23 Ohio St.2d 60]. The school board's arguments to the contrary are not well-taken." *Id.* at 161.

In this case, construing the facts in a manner most favorable to the BOE, we are compelled to conclude that the counter-complaint purportedly filed on its behalf was insufficient to make it a party in the proceedings before the BOR. Not having been a party to those proceedings, the BOE is not entitled to participate as a party appellee in this appeal. See *North Olmsted v. Bd. of Revision* (1980), 62 Ohio St.2d 218, 219. See, also, R.C. 5715.19 and R.C. 5717.01.

Accordingly, it is the Order of the Board of Tax Appeals that the East Cleveland City School District Board of Education be, and hereby is, dismissed as a party to these proceedings.

As a final matter, two separate appeals were filed with this Board by different counsel from the BOR's decision regarding the subject property. Both appeals listed Noah Hayden Ltd. as the appellant. The other appeal is B.T.A. No. 98-G-495. This Board requested clarification from counsel as to proper representation of Noah Hayden Ltd. Upon review of the response from counsel for the appellant in B.T.A. No. 98-G-495¹, this Board determined that the appellant had insufficient interests to accord it standing before this Board and dismissed the appeal. The response from counsel for the instant appeal set forth the subsequent transfers of the property. Noah Hayden Ltd. owned the property on March 23, 1995, when the complaint was filed. On September 25, 1996, the United States Department of Housing and Urban Development ("HUD") took title through foreclosure. Three weeks later "HUD" transferred the property to Cuyahoga Metropolitan Housing Authority ("CMHA"), now the Successor in Interest. Since

¹ In her response, counsel for the appellant now claims this appeal is pursued on behalf of appellant "Noah Hayden Ltd. *** by and through the United States Department of Housing and Urban Development ***." Response at 1.

CMHA is now the present owner, we hereby order the substitution of “CMHA” as appellant and Successor in Interest.

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