

OHIO BOARD OF TAX APPEALS

Northwest Assembly of God, Inc.,)	
)	
Appellant,)	CASE NO. 01-V-566
)	
vs.)	
)	
Union County Board of)	DECISION AND ORDER
Revision, Union County)	
Auditor, and the Dublin City School)	(REAL PROPERTY TAX)
District,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant -	Pastor David Gross Northwest Assembly of God 7055 Avery Road Dublin, Ohio 43017
For the County Appellees -	Larry R. Schneider Union County Prosecuting Attorney Courthouse Building Marysville, Ohio 43040
For the Appellee BOE -	Jeffrey A. Rich Mark A. Gillis Rich, Crites & Wesp 20 East Broad Street Columbus, Ohio 43215-3682

ENTERED: September 28, 2001

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

This appeal is now being considered upon a Motion to Dismiss filed on August 10, 2001 by Appellee Dublin Board of Education (“BOE”). The BOE claims that the complaint filed before the Union County Board of Revision on behalf of Northwest Assembly of God, Inc. (hereinafter “Northwest”), was signed by a person not authorized to practice law. The motion states, in relevant part:

“*** The complaint was signed and filed on behalf of Northwest Assembly of God, Inc. by ‘David L. Gross, Pastor.’ There is no

evidence in the record to suggest that Mr. Gross is an attorney licensed to practice law in the State of Ohio. As a result, the original complaint failed to invoke the jurisdiction of the Union County Board of Revision and any appeal from the decision of the Board of Revision on behalf of Northwest Assembly of God, Inc. must be dismissed.

“*** Consequently, since the original complaint filed on behalf of the property owner did not confer jurisdiction to the BOR to hear the case, the present appeal filed on behalf of the property owner must be dismissed.”

Northwest has not filed any response to the instant motion.

The pertinent facts are as follows. Northwest filed an original complaint before the Union County Board of Revision seeking a decrease in the valuation of parcel No. 40-0029018.000. David L. Gross, pastor of Northwest, signed the complaint.

At hearing before the BOR on May 30, 2001, representatives appeared on behalf of Northwest to request the decrease in the subject parcel.

On June 20, 2001, the BOR sent its decision to Northwest by certified mail dismissing the complaint on the subject parcel because Pastor Gross is not an attorney licensed to practice law in the State of Ohio. On July 19, 2001, Northwest timely filed the instant appeal.

In its notice of appeal, Northwest argues that pursuant to R.C. 5715.19(A)(1)(e) an officer of a corporation may file a complaint on behalf of said corporation.

Of relevance to the instant motion is the Cuyahoga County Court of Appeals' decision in *C.R. Truman, L.P. v. Cuyahoga Cty. Bd. of Revision* (July 27, 2000), Cuyahoga App. No. 76713, unreported, discretionary appeal denied Apr. 11, 2001, wherein the appellate court determined that the amendments¹ to R.C. 5715.19 (allowing real property complaints to be filed by designated persons) were unconstitutional violations of the separation of powers. Specifically, the appellate court held:

“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*

¹ Sub. H.B. 694, eff. March 30, 1999.

(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.”

Considering the record and the jurisdictional issue before us, we agree with the BOR when it decided that it was without jurisdiction to determine the value of the subject parcel. Therefore, Appellee BOE’s motion to dismiss the instant appeal is meritorious. The instant appeal is dismissed.

ohiosearchkeybta