

OHIO BOARD OF TAX APPEALS

Vicki Devol,)	
)	
Appellant,)	CASE NO. 2004-G-650
)	
vs.)	(REAL PROPERTY TAX)
)	
Hocking County Board of Revision and Hocking County Auditor,)	DECISION AND ORDER
)	
Appellees.)	

APPEARANCES:

For the Appellant	-	Stephen E. Proctor Attorney at Law 61 N. Market Street (Rear) Logan, Ohio 43138
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For the County Appellees	-	Larry E. Beal Hocking County Prosecuting Attorney Pauline E. O'Neill Assistant Prosecuting Attorney 88 South Market Street Logan, Ohio 43138
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Entered: June 24, 2005

Ms. Margulies, Mr. Eberhart, and Mr. Dunlap concur.

This cause and matter comes on to be considered by the Board of Tax Appeals upon a motion to remand this case to the Hocking County Board of Revision (“BOR”) with orders to dismiss the complaint. The motion was filed by

counsel for the county on April 1, 2005. Thereafter, on April 5, 2005, Mr. Proctor filed a “[n]otice of appearance of counsel and motion contra motion to dismiss.”

This appeal is now considered by the Board of Tax Appeals upon the notice of appeal, the statutory transcript, the motion to remand and the memorandum contra.

The record evidences that Michael D. Nihiser signed, and presumably prepared and filed, the original complaint. The complaint lists Vicki Devol as the owner of the property. The motion to remand has attached thereto two quit-claim deeds evidencing the transfer of the parcels at issue to Vicki Devol. The transfer, which occurred on or about June 19, 2002, was from her husband, Michael D. Nihiser. The second transfer, which occurred on May 23, 2003, was from Big Pine Properties, LLC. The three parcels listed on the original complaint filed by Mr. Nihiser with the BOR on March 5, 2004 were clearly owned by Vicki Devol.

There is nothing in the record to suggest that Mr. Nihiser is an attorney licensed to practice law in the state of Ohio. The memorandum contra the motion requests that the motion be denied because the appellant, Vicki Devol, now has legal counsel for proceedings before the Board of Tax Appeals. We find this argument to be without merit. The issue presented is whether the original complaint filed with the BOR was jurisdictionally defective. This board has previously held that a non-attorney husband may not file a complaint on behalf of a spouse. See *Friedman v. Hamilton Cty. Bd. of Revision* (May 14, 1999), BTA No. 1998-R-567, unreported. See, also, the decisions rendered by the Supreme Court in *Sharon*

Village Ltd. v. Licking Cty. Bd. of Revision (1997), 78 Ohio St.3d 479 and *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156, and the decision of the Eighth District Court of Appeals in *C.R. Truman, L.P. v. Cuyahoga Cty. Bd. of Revision* (July 27, 2000), Cuyahoga App. No. 76713, discretionary appeal denied Apr. 11, 2001. Consequently, we find this complaint was insufficient to confer jurisdiction upon the Hocking County Board of Revision.

Based on the record in this matter, it is the decision and order of the Board of Tax Appeals that this matter be remanded to the Hocking County Board of Revision with instructions to dismiss the subject complaint and retain the values determined by the Hocking County Auditor.

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