

**OHIO BOARD OF TAX APPEALS**

Basil Grimes Post 222, American Legion, )  
Appellant, )  
vs. )  
Perry County Board of Revision and the Perry County Auditor, )  
Appellees. )

CASE NO. 2005-V-54  
(REAL PROPERTY TAX)  
DECISION AND ORDER  
(Remanding Appeal with Instructions to Dismiss)

APPEARANCES:

For the Appellant Property Owner - (no appearance)  
Basil Grimes American Legion Post 222  
200 North Buckeye Street  
Crooksville, OH 43731

Notice of Appeal filed by - Robert B. Marlow, Trustee  
13207 St. Rt. 669 NE  
Crooksville, OH 43731

For the County Appellees - Joseph A. Flautt  
Perry County Prosecuting Attorney  
110 North Main Street  
P.O. Box 569  
New Lexington, OH 43764

Entered April 8, 2005

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

This appeal is now considered by the Board of Tax Appeals following an interim order issued by this board requiring appellant to show cause as to why the instant appeal should not be dismissed.

In the instant case, a review of the statutory transcript and the notice of appeal indicates that the original complaint, seeking a decrease in the Perry County Auditor's ("auditor") valuation of the subject parcels, was filed on behalf of the

appellant property owner, American Legion Inc. Post,<sup>1</sup> by Robert B. Marlow, who identifies himself as a trustee. The decision letter of the Perry County Board of Revision (“BOR”) attached to the notice of appeal indicates that the BOR nevertheless considered the complaint and reduced the subject parcels’ valuation. Neither the complaint nor the remainder of information attached to the notice of appeal suggests that the individual who signed the complaint is an attorney authorized to make such filing, or that an attorney prepared and filed the complaint in question. Compare *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2001), 91 Ohio St.3d 308, paragraph one of the syllabus (“An attorney who signs an R.C. 5715.19 valuation complaint in his or her capacity as an attorney-at-law and files it, or directs its filing, in accord with R.C. Chapter 5715, has thereby ‘prepared and filed’ that complaint for purposes of determining whether jurisdiction has vested in a county board of revision, as contemplated by *Sharon Village Ltd. v. Licking Cty. Bd. of Revision* (1997), 78 Ohio St.3d 479, 678 N.E. 2d 932.”).

In *Sharon Village Ltd.*, supra, and *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156, the Supreme Court of Ohio concluded that only individual owners of real property and attorneys-at-law were authorized to prepare and file real property complaints.

---

<sup>1</sup> The property record card certified to this board by the auditor lists the subject’s owner as “American Legion Inc. Post,” whereas the complaint filed by Mr. Marlow lists the owner as: “Basil Grimes Post Am Legion 222.” Statutory Transcript (“S.T.”) at 1 and 3. We do not have to reach the issue of whether the complainant properly identified the titled owner of the property, given our holding today that the underlying complaint is jurisdictionally defective on other grounds. See *Bolivar Road, Inc. v. Cuyahoga Cty. Bd. of Revision* (Dec. 19, 2003), BTA No. 2002-A-2793, unreported (name inaccuracies resulted in dismissal of complaint).

In response to *Sharon Village Ltd.*, supra, and *Worthington*, supra, the General Assembly enacted Sub.H.B. 694, 147 Ohio Laws, Part III, 5373 (eff. Mar. 30, 1999). Through that enactment, both R.C. 5715.13 and 5715.19 were amended to allow real property complaints to be filed by designated persons who were statutorily authorized to act in a representative capacity, including an officer of a corporation. However, in *C.R. Truman, L.P. v. Cuyahoga Cty. Bd. of Revision* (July 27, 2000), Cuyahoga App. No. 76713, unreported, the Cuyahoga County Court of Appeals found the amendments to R.C. 5715.13 and 5715.19 to be unconstitutional violations of the separation of powers:

“Pursuant to Section 2(B)(1)(g), Article IV of the Ohio Constitution, the Ohio Supreme Court shall have original jurisdiction of ‘admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.’ ‘The Supreme Court has consistently indicated that it alone has the inherent power to regulate, control and define the practice of law in Ohio.’ *Washington Cty. Dept. of Human Serv. v. Rutter* (1995), 100 Ohio App.3d 32, 36, citing to *State ex. rel. Green v. Brown* (1962), 173 Ohio St. 114, 18 O.O.2d 361, 180 N.E.2d 157, paragraph one and two of the syllabus; *Judd v. City Trust & Savings Bank* (1937), 133 Ohio St. 81, 10 O.O. 95, 12 N.E.2d 288, paragraph one of the syllabus. The Ohio Supreme Court has repeatedly held that the filing of a complaint before the Board of Revision constitutes the practice of law. *Sharon Village Ltd. v. Licking County Bd. of Revision* (1997), 78 Ohio St.3d 479 syllabus; *Lakeside Ave. L.P. v. Cuyahoga County Bd. of Revision* (1999), 85 Ohio St.3d 125, 126; *Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1999), 85 Ohio St.3d 156, 158. Amended R.C. 5715.19(A) permits persons who are not attorneys or the owners of the property to file complaints before the Board of Revision on behalf of the owner and therefore permits non-attorneys to engage in what has been uniformly recognized as the practice of law.

“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* (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.”

This board has previously found on several occasions that the court’s ruling is persuasive, as we do today. See *City of Strongsville, Strongsville Bd. of Edn. and The Glidden Co. v. Cuyahoga Cty. Bd. of Revision*, (Apr. 27, 2001), BTA Nos. 1997-M-300-301, 304-305, 310, 323, unreported. See, also, *Bd. of Edn. of the Whitehall City School District v. Franklin Cty. Bd. of Revision* (March 19, 2002), Franklin App. Nos. 01AP-878, 01AP-879, unreported, where in a factually analogous situation, the Tenth District Court of Appeals affirmed this board’s decision to remand a complaint filed by a non-attorney to the BOR with instructions to dismiss, and found the analysis in *C.R. Truman* to be persuasive authority.

In his response to this board’s order, Mr. Marlow argues that the officers and members of the Basil Grimes Post American Legion #222 are the “owners” of the property during their “term in office” given their responsibilities to maintain the subject property. Mr. Marlow does not suggest that he is an attorney at law authorized to prepare and sign the complaint on behalf of the property owner.

In *Victoria Plaza Ltd. v. Cuyahoga Cty. Bd. of Revision* (1999), 86 Ohio St.3d 181, the Ohio Supreme Court held: “\*\*\* [A] person owning property has legal

title to it; a person having the beneficial interest in property has possession of all characteristics of ownership other than legal title. Since R.C. 5715.19 does not contain language allowing someone other than the person holding legal title to file a complaint, we conclude that the owner of an equitable interest in real property does not have standing to file a complaint.” Id. at 183.

The record before us indicates that title to the subject is held in the name of the “American Legion Inc. Post.” S.T. at 3. A review of the record shows that the original complaint was signed, prepared, and filed by Mr. Marlow, who lists himself as a trustee.<sup>2</sup> No evidence has been provided that indicates that Mr. Marlow is licensed to practice law within the state of Ohio.

We conclude that such complaint was insufficient to invoke the jurisdiction of the Perry County Board of Revision. Therefore, considering the record before us, it is the decision and order of the Board of Tax Appeals that this matter be remanded to the Perry County Board of Revision with instructions to dismiss the original complaint and to reinstate the valuation originally assigned by the auditor.

ohiosearchkeybta

---

<sup>2</sup> On the face of the complaint, Mr. Marlow identifies the complainant as “Commander Harold Frash” and further identifies himself as the “complainant’s agent.” S.T. at 1.