

OHIO BOARD OF TAX APPEALS

Ameritech Corporation,)	
)	CASE NO. 98-G-237
Appellant,)	
)	
vs.)	(REAL PROPERTY TAX)
)	
Cuyahoga County Board of Revision,)	
Cuyahoga County Auditor, and Shaker)	DECISION AND ORDER
Heights Board of Education,)	
)	(Dismissing Board of
Appellees.)	Education as a party)

APPEARANCES:

For the Appellant -	Matthew T. Fitzsimmons Thomas A. Gattozzi Nicola, Gudbranson & Cooper, LLC Landmark Office Towers Republic Building Suite 1400 25 West Prospect Avenue Cleveland, Ohio 44115
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And

Dean H. Bilton
Flanagan, Bilton & Brannigan
200 East Randolph Drive – Suite 6900
Chicago, Illinois 60601-6400

For the County Appellees -	William D. Mason Cuyahoga County Prosecuting Attorney By: David G. Lambert Assistant Prosecuting Attorney Eighth Floor, Courts Tower 1200 Ontario Street Cleveland, Ohio 44113
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For the BOE -	Charles P. Braman Charles P. Braman & Co., Inc. 23300 Chagrin Boulevard, Suite 201 Beachwood, Ohio 44122
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ENTERED: May 26, 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 Shaker Heights Board of Education's ("BOE") counter-complaint was signed by its treasurer. The signature appears to be "Daniel L. Wilson." No claim has been made by the BOE that Mr. Wilson 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 Villag 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 Shaker Heights Board of Education be, and hereby is, dismissed as a party to these proceedings. ohiosearchkeybta