

## Real Property Tax Complaints and the Unauthorized Practice of Law in Ohio

Avoid a Dismissal of Your Company's Valuation Complaint

March 2, 2012 by [Richard Tranter](#) and [Sarah Herron](#)

In Ohio, property owners can contest the value of their property for real estate tax purposes. The mechanism to do this is to file a "Complaint Against the Valuation of Real Property" with the county auditor. Then, a hearing on the complaint is heard by the county Board of Revision ("BOR"). The deadline to file these complaints for the 2011 tax year is April 2, 2012. If your company is contemplating filing a complaint, avoid having your complaint dismissed based on the unauthorized practice of law.

The Ohio Revised Code provides that when the property owner is a "firm, company, association, partnership, limited liability company, or corporation, an officer, a salaried employee, a partner, or a member" may file a board of revision complaint. R.C. 5715.19(A)(1). However, this sweeping authority has been tempered by the Supreme Court of Ohio. The Court held that "a *corporate officer* does not engage in the unauthorized practice of law by preparing and filing a complaint and presenting the claimed value of the property at a hearing before the board of revision on behalf of his or her corporation." *Dayton Supply & Tool Co., Inc. v. Montgomery Cty. Bd. of Revision*, 111 Ohio St.3d 367, 2006-Ohio-5852, 856 N.E.2d 926, ¶ 2 (emphasis in original).

However, this holding is limited to corporate officers who have a fiduciary duty to the corporation. *Id.* ¶ 22. In addition, the corporate officer cannot "make legal arguments, examine witnesses, or undertake other tasks that can be performed only by an attorney." *Id.* ¶ 2. Furthermore, "a corporation *must* hire an attorney if any of the proceedings before the BOR, including the preparation and filing of the complaint, involve more than the factual issue of the value of the property, and issues exist or arise that require an attorney to resolve." *Id.* ¶ 31 (emphasis added).

The Board of Tax Appeals extended the holding in *Dayton Supply* to members of a limited liability company. *Board of Ed. of the Columbus City Schools v. Franklin Cty. Bd. of Revision*, Case No. 2006-A-1173, 2007 Ohio Tax LEXIS 392 (Mar. 2, 2007). Accordingly, a member of a limited liability company may prepare and file a board of revision complaint so long as the complaint does not involve more than the factual issue of the value of the property, and a member may not perform attorney work such as making legal arguments at the board of revision hearing.

Your company *may* be able to contest its property valuation without legal counsel, but an improper complaint that crosses this fine line into the unauthorized practice of law will be dismissed, and your company cannot file another complaint until the next tax year. R.C. 5715.19(A)(3). Due to the severe consequences (i.e. dismissal) of an improper complaint, best practices dictate that an attorney prepare and file a complaint on behalf of a business entity. Furthermore, only an attorney can cross examine witnesses (such as the auditor or school board's appraiser) or make legal arguments at the board of revision hearing. Accordingly, be aware of the attorney requirements as to real estate tax valuation matters.