

**OHIO BOARD OF TAX APPEALS**

John Chervenak, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 Ottawa County Board of Revision )  
 and Ottawa County Auditor, )  
 )  
 Appellees. )

CASE NO. 2002-N-2124  
(REAL PROPERTY TAX)  
DECISION AND ORDER

APPEARANCES:

- For the Appellant - John A. Chervenak, pro se  
17428 Greenbrier Drive  
Strongsville, Ohio 44136
  
- For the Appellees - Rich, Crites & Wesp  
James R. Gorry  
300 East Broad Street, Suite 300  
Columbus, Ohio 43215

Entered December 19, 2003

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

This matter is considered by the Board of Tax Appeals upon a notice of appeal filed by the appellant, John A. Chervenak, from a decision of the Ottawa County Board of Revision (“BOR”) for tax lien date January 1, 2001. The subject property is identified as parcel no. 025-05658-01712-001.

Upon consideration of the complaint, the BOR determined the true and taxable values should remain as determined by the auditor, as follows:

Parcel No.  
025-05658-01712-001

	True Value	Taxable Value
Land	\$ 17,160	\$ 6,010
Building	\$ 46,880	\$ 16,410
Total	\$ 64,040	\$ 22,420

Through his notice of appeal, Mr. Chervenak alleges that the correct values for tax year 2001 are as follows:

Parcel No.  
025-05658-01712-001

	True Value	Taxable Value
Land	\$ 17,160	\$ 6,010
Building	\$ 14,890	\$ 5,210
Total	\$ 32,050	\$ 11,220

The matter is submitted to the Board of Tax Appeals pursuant to R.C. 5717.01 upon the notice of appeal, the statutory transcript certified by the Ottawa County Auditor as the secretary for the BOR,<sup>1</sup> and the record of the hearing before this board (R.).<sup>2</sup>

The subject property includes a lot that is 40 by 110 feet, purchased by Mr. Chervenak in 1993 for \$7,000. It is improved with a structure approximately 30 by 24 feet. The first level includes a 2-car garage and a living area of approximately 15 by 24 feet. The second level is approximately 30 by 12 feet in size. Mr. Chervenak initiated

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<sup>1</sup> We note there was a tape recorder malfunction at the board of revision and the hearing there was not recorded.

<sup>2</sup> The instant appeal is a continuation of a prior case filed with this board but dismissed upon the authority of *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision*, 96 Ohio St.3d 165, 2002-Ohio-4033. See *Chervenak v. Ottawa Cty. Bd. of Revision* (Oct. 30, 2002), BTA No. 2002-N-940, unreported.

the construction in 1995. He paid a contractor \$17,000 to rough in the interior. Mr. Chervenak added drywall, and there are blinds in the windows. As of tax lien date, he had spent another \$3,000 for materials.

The lot does not have a sewer link, and because of the small size of the lot a septic tank is not feasible. There is a water main running along the front of the lot, which Mr. Chervenak has not hooked into. The structure has no plumbing. (R. 11-12) There is a well that produces enough water for Mr. Chervenak to water his garden. Because of the rough interior and the lack of water and sewer service, Mr. Chervenak considers his property uninhabitable. He considers it a “two-car garage with storage and a workbench.” (R. 11) Due to the lack of water and sewer service, Mr. Chervenak did not intend the structure to be a residence, but rather to be a garage and workshop. (R. 12) The appraisal report indicates the subject has no heat.

The county presented the testimony and appraisal of Richard Hoffman. Mr. Hoffman did not find sufficient data to calculate an income approach. He did prepare the market and cost approaches. The cost approach included within the appraisal determines a value of \$71,213. Under the market approach, the appraiser found four comparable sales, and after making adjustments, he found the value to be \$87,000 on tax lien date.

Mr. Chervenak objected to the sales comparables, because his property is uninhabitable, whereas the comparables are habitable dwellings. When questioned, the appraiser discussed his adjustments, noting that he subtracted \$10,000 from the comparables for the lack of water and sewer service. He explained that “the largest

adjustment we made was for functional utility. And that was \$10,000, assuming that that would be the cost to cure the connection of the water from the street and to bring the sewer from the beginning of Sybil Drive to this location.” Mr. Chervenak then demonstrated where the sewage line was to be placed on the map the appraiser was using. He indicated he saw the engineering plans, which called for a cost of \$500,000 to put in the sewer line.

Mr. Chervenak also disputed the comparables used. He indicated the comparables were livable homes. Mr. Chervenak stated no one had ever been inside the structure to view it, and therefore no one was aware of the rough finish. He also disputed the number of rooms. The appraisal indicates 4 rooms, with no entries for bedrooms or baths, whereas Mr. Chervenak indicates there are only 2 rooms.

Here, we find in the appraisal report, under the sales comparison approach, no adequate adjustments to equalize value between a livable residence and a roughed-in structure. Although there is an item called “quality of construction,” the entries are either “vinyl” or “frame,” and there are no adjustments. Mr. Chervenak has a residence several lots down from the subject, and competently testified about the condition of his structure and the comparables.

The adjustment of \$10,000 for the sewer and water is not explained. There is no discussion of how much it would cost to hook into the water main at the front of the lot, or the costs to run the sewer line from the corner to the subject lot, and the subsequent cost to hook the subject into this. The appraisal report indicates the Marshall

& Swift manual was used to estimate the costs. We question if this or another service could have been used to provide costs for the water connection and the sewer connection.

Mr. Chervenak testified to the cost of his lot, and costs to improve the lot. He indicated he had supplied labor to further improve the building, stating it was his hobby. However, the extent of his labor and specifically what he did over several years was not detailed.

A party who asserts a right to an increase or decrease in the value of real property has the burden to prove the right to the value asserted. *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336; *Crow v. Cuyahoga Cty. Bd. of Revision* (1990), 50 Ohio St.3d 55; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St.3d 318. Consequently, it is incumbent upon an appellant challenging the decision of a board of revision to come forward and offer evidence demonstrating its right to the value sought. *Cleveland Bd. of Edn.*, supra; *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493. Once an appellant has presented competent and probative evidence of true value, other parties asserting a different value then have a corresponding burden of providing sufficient evidence to rebut the appellant's evidence. *Springfield Local Bd. of Edn.*, supra; *Mentor Exempted Village Bd. of Edn.*, supra.

Here, we agree with Mr. Chervenak that the value of his property is not as estimated in the appraisal report. However, Mr. Chervenak does not supply us with adequate information upon which to value the subject. He provides some costs, but there

were significant improvements added by his own labor and materials which we cannot quantify. When he adds the cost of the land, contracting and materials, he does not adjust the price paid for the land for 8 years of inflation, a material amount in this specific matter. Where this board rejects the evidence before it as not being competent and probative or credible, and there is no other evidence from which we can independently determine value, we may approve the board of revision's valuation, without the BOR presenting any evidence. *Corporate Exchange Bldgs. IV & V, L.P. v. Franklin Cty. Bd. of Revision* (1998), 82 Ohio St.3d 297; *Simmons v. Cuyahoga Cty. Bd. of Rev.* (1998), 81 Ohio St.3d 47; *Luken v. Miami Cty. Bd. of Revision* (Sept. 19, 1997), BTA No. 1996-G-976, unreported.

The board finds the following values for the subject property for tax year 2001:

Parcel No.		
025-05658-01712-001		
	True Value	Taxable Value
Land	\$ 17,160	\$ 6,010
Building	\$ 46,880	\$ 16,410
Total	\$ 64,040	\$ 22,420

It is the order of the Board of Tax Appeals that the Auditor of Ottawa County list and assess the subject real property in conformity with this decision and order. It is further ordered that this value be carried forward in accordance with the law.

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