

OHIO BOARD OF TAX APPEALS

Northwest Local School District) CASE NO. 2003-J-1335
Board of Education,)
) (REAL PROPERTY TAX)
Appellant,)
) DECISION AND ORDER
vs.)
)
Hamilton County Board of Revision,)
Hamilton County Auditor and,)
Goldcrest Apartments, Ltd., L.P., and) **Remanded upon Settlement of Appeal**
Twenty-Twenty, L.P.,) **Ohio Supreme Court**
) **August 26, 2005**
Appellees.)

APPEARANCES:

For the Appellant - Ennis, Roberts & Fischer
C. Bronston McCord III
121 West Ninth Street
Cincinnati, Ohio 45202-5718

For the County Appellees - Joseph T. Deters
Hamilton County Prosecuting Attorney
Thomas J. Scheve
Assistant Prosecuting Attorney
230 East Ninth Street
Suite 800
Cincinnati, Ohio 45202

For the Appellee Property Owner - Robbins, Kelly, Patterson & Tucker
Michael A. Galasso
The Federated Building
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7 West Seventh Street
Cincinnati, Ohio 45202-2417

Entered February 25, 2005

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

The Board of Tax Appeals is considering this matter pursuant to a notice of appeal filed by the Northwest Local School District Board of Education

(“BOE”). The BOE has appealed from a decision of the Hamilton County Board of Revision (“BOR”) that determined the value of the subject real property for tax year 2002. The property is located in the Colerain taxing district and is identified on the auditor’s records as parcels 510-0230-0206, 510-0230-0349, 510-0230-367, and 510-0230-0502.

The value determined by the Hamilton County Auditor is as follows:

Parcel 510-0230-0206

	TRUE VALUE	TAXABLE VALUE
Land	\$ 829,400	\$ 290,290
Building	\$4,755,600	\$1,664,460
Total	\$5,585,000	\$1,954,750

Parcel 510-0230-0349

	TRUE VALUE	TAXABLE VALUE
Land	\$ 110,900	\$ 38,820
Building	\$ 612,200	\$ 214,270
Total	\$ 723,100	\$ 253,090

Parcel 510-0230-367

	TRUE VALUE	TAXABLE VALUE
Land	\$ 112,600	\$ 39,410
Building	\$ 532,100	\$ 186,240
Total	\$ 644,700	\$ 225,650

Parcel 510-0230-0502

	TRUE VALUE	TAXABLE VALUE
Land	\$ 21,100	\$ 7,390
Building	\$ 21,100	\$ 7,390
Total	\$ 42,200	\$ 14,780

The value determined by the BOR is as follows:

Parcel 510-0230-0206

	TRUE VALUE	TAXABLE VALUE
Land	\$ 829,400	\$ 290,290
Building	\$3,747,090	\$1,311,480
Total	\$4,576,490	\$1,601,770

Parcel 510-0230-0349

	TRUE VALUE	TAXABLE VALUE
Land	\$ 110,900	\$ 38,820
Building	\$ 244,410	\$ 85,540
Total	\$ 355,310	\$ 124,360

Parcel 510-0230-367

	TRUE VALUE	TAXABLE VALUE
Land	\$ 112,600	\$ 39,410
Building	\$ 326,400	\$ 114,240
Total	\$ 439,000	\$ 153,650

Parcel 510-0230-0502

	TRUE VALUE	TAXABLE VALUE
Land	\$ 21,100	\$ 7,390
Building	\$ 21,100	\$ 7,390
Total	\$ 42,200	\$ 14,780

The matter has been submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript certified by the BOR, the evidence adduced at the hearing conducted herein, and the briefs filed by counsel for the property owner and counsel for the BOE.

Prior to the BTA hearing, in a conference call with the hearing examiner, the parties agreed that the BOR's determination of value is not at issue. The sole question presented is whether the BOR had jurisdiction to determine value because the complaint was not filed in the name of the property owner. The complaint listed Goldcrest Apartments, Ltd. as the owner.

The property owner submitted the testimony of Calvin J. Reynolds, owner of Reynolds Financial Group. Reynolds Financial Group is the general partner of Twenty-Twenty, LP, formerly known as Goldcrest Apartments. Mr. Reynolds and a partnership known as Seaboard Properties are the limited partners

of Twenty-Twenty, LP. Seaboard Properties is owned by two entities, both of which are owned in their entirety by Mr. Reynolds. Twenty-Twenty, LP is registered with the Ohio Secretary of State as a company doing business as Brixworth Apartments. Brixworth Apartments, Goldcrest Apartments, and Twenty-Twenty, LP all have the same IRS employer identification number.

Mr. Reynolds testified that the property owner asked the Hamilton County Auditor to change the name of the owner of the subject property on his records to Twenty-Twenty, LP. However, it appears that the Hamilton County Treasurer was not made aware of Mr. Reynolds' request, since the tax bills are addressed to two entities at the same address. One is addressed to Goldcrest Apartments, Ltd. and the other is addressed to Twenty-Twenty, LP. Both tax bills represent separate portions of the Brixworth Apartments which sit upon the four contiguous subject parcels.

The taxes are paid from the account of Twenty-Twenty, LP doing business as Brixworth Apartments. The name of the limited partnership was changed from Goldcrest to Twenty-Twenty because the Goldcrest Apartments had been sold in 1996. By document executed October 1, 1997 and filed with the Ohio Secretary of State, Goldcrest withdrew as general partner and Reynolds Financial Group, Inc. became the new general partner. By certificate filed with the Ohio Secretary of State October 22, 1997 Goldcrest Apartments changed its name to Twenty-Twenty, LP.

The property record cards for parcels 510-0230-0206 and 510-0230-0502 list Goldcrest Apartments, Ltd. as the owner. The cards list the address of the building on both parcels as 5551 Old Blue Rock Road. The building was constructed in 1978 and contains 403 apartment units. Goldcrest purchased both parcels January 31, 1997 for \$4,900,000. The cards do not list a transfer history.

The property record cards for parcels 510-0230-0349 and 510-0230-0367 list Twenty-Twenty LP as the owner. The address of parcel 510-0230-0349 is listed as 5713 Springdale Road. The address of parcel 510-0230-0367 is listed as 5741 Springdale Road. The improvements on parcel 510-0230-0349 are listed as an outbuilding and two superstructure additions constructed in 1976. The improvements on parcel 510-0230-0367 are listed as 401 apartment units. Twenty-Twenty purchased both parcels June 2, 1998 for \$1,512,000 from Raymond S. Tenhunfeld.

This board has previously addressed the need for a complainant to correctly identify the owner of a property whose valuation is being challenged, concluding that such a need runs to the core jurisdiction of a board of revision to consider the value of the property. See, e.g., *Trotwood-Madison City School Dist. v. Montgomery Cty. Bd. of Revision* (June 30, 1997), BTA No. 1995-S-1282, unreported; *City of Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (Jan. 22, 1999), BTA No. 1998-L-138, unreported. The clear import of this requirement is to ensure that in those instances in which a complaint is filed by someone other than the owner, the owner receives the notices attendant with

such filing. See, e.g., *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2000), 87 Ohio St.3d 363.

As stated, the complaint challenging the value for all four parcels lists the owner as Goldcrest Apartments, Ltd. Therefore, the complaint correctly named the owner of record for parcels 510-0230-0206 and 510-0230-0502. The board accordingly finds that jurisdiction properly vested in the BOR as to those two parcels.

However, the complaint challenging the value for parcels 510-0230-0349 and 510-0230-0367 does not list the owner named in the county records, Twenty-Twenty LP. In *Trotwood-Madison City School District v. Montgomery Cty. Bd. of Revision* (June 30, 1997), BTA 1995-S-1282, unreported, this board dismissed an appeal where the board of revision complaint failed to name the owner of the property. We stated:

“A review of R.C. 5715.19 and R.C. 5715.12 indicates that the instruction on DTE Form 1 requiring the complaint to list the owner of the property is intended to elicit statutorily required information. The name of the property owner is necessary to enable the auditor to notify the property owner that a complaint has been filed against the property and to enable the BOR to notify the property owner of the time and place of any hearings relating to such complaint.”

See, also, *Ferro Corp. v. Cuyahoga Cty. Bd. of Revision* (Oct. 12, 2001), BTA No. 2000-N-2063, unreported; *Ritz Carlton Hotel Partnership v. Cuyahoga Cty. Bd. of Revision* (May 11, 2001), BTA No. 1998-L-355, unreported. The board finds that the complaint challenging the value of parcels 510-0230-0349 and 510-0230-0367

fails to correctly name the owner. The failure to name the owner renders the complaint jurisdictionally defective as to those two parcels.

We next turn to the question of value of parcels 510-0230-0206 and 510-0230-0502. The Ohio Supreme Court has held that where the only evidence is the record of the proceeding before the BOR, this board must examine the statutory transcript in order to perform our statutory duty of making a de novo finding of value. In this regard we acknowledge *Black v. Cuyahoga Cty. Bd. of Revision* (1985), 16 Ohio St.3d 11, wherein the court held:

“The requirements of R.C. 5717.05, as interpreted by *Cleveland [v. Bd. of Revision* (1953), 96 Ohio App. 483], establish that the common pleas court has a duty on appeal to independently weigh and evaluate the evidence properly before it. The court is then required to make an independent determination concerning the valuation of the property at issue. The court’s review of the evidence should be thorough and comprehensive, and should ensure that its final determination is more than a mere rubber stamping of the board of revision’s determination * * *.” Id. at 13-14.

The Supreme Court again addressed the review standard this board must follow in *Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1996), 76 Ohio St.3d 13, 15 wherein the court stated:

“We find that the BTA in this case is required to meet the standard enunciated in *Black*. Thus, if the only evidence before the BTA is the statutory transcript from the board of revision, the BTA must make its own independent judgment based on its weighing of the evidence contained in that transcript.”

At the BOR hearing the property owner submitted an appraisal performed by Howard G. Thiemann. However, the appraisal did not separately value parcels 510-0230-0206 and 510-0230-0502. Therefore, the appeal is remanded to the BOR with orders to determine value for parcels 510-0230-0206 and 510-0230-0502 only, since jurisdiction over parcels 510-0230-0349 and 510-0230-0367 is lacking.

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