

OHIO BOARD OF TAX APPEALS

Joyce Cahaan,)
)
 Appellant,) CASE NOS. 2004-A-1086,
) 2004-A-1087
)
 vs.) (REAL PROPERTY TAX)
)
) DECISION AND ORDER
 Franklin County Board of Revision,)
 Franklin County Auditor, and the)
 Board of Education of the Hilliard City)
 Schools District,)
)
 Appellees.)

APPEARANCES:

For the Appellant -Joyce Cahaan, pro se
5267 Bridle Creek Way
Hilliard, Ohio 43026

For the County
Appellees -Ron O'Brien
Franklin County Prosecuting Attorney
Scott Gaugler
Assistant Prosecuting Attorney
373 South High Street, 17th Floor
Columbus, Ohio 43215

For the Appellee
Bd. of Edn. -Rich, Crites & Dittmer, LLC
Mark H. Gillis
300 East Broad Street, Suite 300
Columbus, Ohio 43215-3756

Entered July 15, 2005

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

This cause and matter came on to be considered by the Board of Tax Appeals upon two notices of appeal filed herein by the above-named appellant from

decisions of the Franklin County Board of Revision. In said decisions, the board of revision determined the taxable value of the subject real property for tax year 2003.

The matter was submitted to the Board of Tax Appeals upon the notices of appeal, the statutory transcripts certified to this board by the county board of revision, and the record of the hearing before this board.

The subject property, eight condominium rental units, is located in the city of Columbus/Hilliard City School District taxing district and is identified on the auditor's records as parcel numbers 560-240700, 560-240683, 560-240684, 560-240687, 560-240688, 560-240699, 560-240686, 560-240685, 560-240682, and 560-240681. The first five parcels were purchased together by appellant on March 17, 2003, for a total price of \$202,000 and the latter five parcels were also purchased on that same date, March 17, 2003, for the same total price of \$202,000. Based upon those sales, the board of revision adjusted the values of the subject parcels to reflect the overall sale prices obtained for the groups of parcels in March 2003, i.e., \$202,000, respectively. The appellant alleges that the correct value for each of the condominium units and associated parcels is \$48,000, with a corresponding total true value of each group of parcels of \$192,000. H.R. at 15.

First, in reviewing how these matters came to us, we note that in February 2004, relying upon the prices obtained in the sales of the subject property in March 2003, the board of education filed two complaints against the valuation of real property with the Franklin County Board of Revision seeking an increase in value of each group of parcels to \$202,000. Relying upon such sale prices, the board of

revision ultimately increased the value assigned by the auditor for each group of parcels to \$202,000. Thereafter, the property owner appealed the BOR's determination to us.

We must begin by noting that 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), 37 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 which demonstrates 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.

Appellant appeared before this board, as she did before the BOR, to present testimony and evidence. Her position is best summarized in her testimony to this board:

“At the time that we paid \$50,000 per unit on the property
*** it was based on the income/expense statement and the
leases we asked for. And based on that information, there
was – we didn't even negotiate it. *** It was a clear go.
*** After purchasing the property, I received folders for
each tenant. And what they failed to give us but was in the

tenant folder were lease – addendums to the leases which were rental concessions. ***

“You will see the rental concessions that were – they were giving, which would, had we seen that, would have totally changed the view of these condominiums as an investment property. Because these were unusual concessions in that they were giving away not just one month’s free rent, but – and just not- not letting what – not allowing the use of washer/dryer; they gave away the washer and dryer to live in the apartment for one year, to sign a year’s lease. They gave away \$500 gift certificates.

“*** The concessions totaled over a thousand – about 1,200 – average, \$1,200 apiece. In which case, that greatly reduced the value of the property – the value of the income. But more important than that, it *** would show any investor that there was a problem in occupying these – these units. *** It changed the whole perspective. It really covered up what the investment really was all about.” H.R. at 8-9.

Appellant also argued that her taxes should be reduced due to competition in the area forcing her to reduce her asking rents, and thus reduce the overall income generated by the subject property. H.R. at 10-11.

In support of her testimony, Ms. Cahaan offered three exhibits into evidence. Exhibit #1 consists of sample rental concession addenda indicating that the following items were given to lessees: a \$500 gift certificate to Meijer and a \$370 digital camera, agreement signed and dated July 5, 2002; free rent in June 2002 and a \$500 gift certificate to Wal-Mart, agreement signed and dated May 2, 2002; \$500 off August 2002 rent, a \$500 gift certificate to Meijer, a \$165 DVD player, a waiver of application fees, and \$201 off the security deposit, agreement signed and dated August 26, 2002; a free washer/dryer and first month rent free and \$15 off monthly rent,

agreement signed and dated June 4, 2001; a \$100 gift certificate to Giant Eagle, one week free rent (\$140), and May 2002 rent free, agreement signed, but undated; a free washer/dryer, September 2003 rent free, a \$110 George Foreman grill, \$201 off the security deposit, waiver of application fees, and August rent pro-rate free (\$340), agreement signed and dated August 15, 2002; July rent free and free basic cable until July 31, 1999, agreement signed and dated June 19, 1998. Exhibits #2 and #3 were offered to demonstrate the monthly lease rates of the subject property's competition.

As we consider the evidence offered, we first note that the rental concession agreements contained in Ex. #1 all pre-dated the sale of the subject to Ms. Cahaan, and all of the terms of the agreements had been executed prior to such sale. H.R. at 18-20. Further, there is nothing in the record to demonstrate what effect, if any, these concessions would have on the subject's market value in 2003. With regard to Exs. #2 and #3, there is nothing in the record to establish whether the competition is actually comparable to the subject in size, amenities, location, condition, and other rental considerations. Without appraisal or other evidence to support a decrease in the subject's value as of tax lien date, January 1, 2003, this board is unable, on its own, to quantify the impact, if any, that the rent concessions and/or the competition had on the subject's real property tax valuation.

As we turn to the board of education's position in this matter, we note that contained in the statutory transcripts certified to this board by the board of revision, there are copies of the deeds and conveyance fee statements offered by the board of education to the BOR as support for its position that the sales of the subject

are the best evidence of its value for tax year 2003. The deeds and conveyance fee statements indicate that the subject was transferred on March 17, 2003, to the appellant for the amount of \$404,000 (\$202,000 for each group of 5 parcels). Counsel for the board of education contends that these sales constitute valid, recent, arm's-length transactions, and, as such, the transfer prices should be considered the best evidence of the value of the subject property as of January 1, 2003. We agree.

R.C. 5713.03 provides, in pertinent part, that:

“In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor shall consider the sale price *** to be the true value for taxation purposes.”

The Ohio Supreme Court has consistently held that the best evidence of true value of real property is an actual, recent, arm's-length sale. *Zazworsky v. Licking Cty. Bd. of Revision* (1991), 61 Ohio St.3d 604; *Hilliard City School Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1990), 53 Ohio St.3d 57; *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410.

Thus, with no competent or probative evidence in the record rebutting the presumption that the sale prices are the best evidence of value, this board, as the board of revision previously did, finds that the best evidence of value of the subject property is its \$404,000 sale price paid on March 17, 2003. Therefore, based upon the totality of the evidence before us, the value of the subject parcels as of January 1, 2003, shall be as follows:

PARCEL #560-240700		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 600	\$ 210
Building	4,200	1,470
Total	\$ 4,800	\$ 1,680

PARCEL #560-240683		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,000	\$ 2,100
Building	42,900	15,020
Total	\$ 48,900	\$ 17,120

PARCEL #560-240684		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,000	\$ 2,100
Building	42,900	15,020
Total	\$ 48,900	\$ 17,120

PARCEL #560-240687		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,000	\$ 2,100
Building	43,700	15,300
Total	\$ 49,700	\$ 17,400

PARCEL #560-240688		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,000	\$ 2,100
Building	43,700	15,300
Total	\$ 49,700	\$ 17,400

PARCEL #560-240699		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 600	\$ 210
Building	4,000	1,400
Total	\$ 4,600	\$ 1,610

PARCEL #560-240686		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,000	\$ 2,100
Building	43,600	15,260
Total	\$ 49,600	\$ 17,360

PARCEL #560-240685		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,000	\$ 2,100
Building	43,600	15,260
Total	\$ 49,600	\$ 17,360

PARCEL #560-240682		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,000	\$ 2,100
Building	43,100	15,090
Total	\$ 49,100	\$ 17,190

PARCEL #560-240681		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,000	\$ 2,100
Building	43,100	15,090
Total	\$ 49,100	\$ 17,190

It is the decision and order of the Board of Tax Appeals that the Franklin County Auditor shall list and assess the subject property in conformity with this decision.

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