

OHIO BOARD OF TAX APPEALS

Planet Investment Corp.,)	
)	CASE NOS. 2004-A-1205,
)	2004-A-1206
Appellant,)	
)	(REAL PROPERTY TAX)
vs.)	
)	DECISION AND ORDER
Franklin County Board of Revision,)	
Franklin County Auditor, and the Board)	
of Education of the Plain Local Schools)	
District,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant - Timothy Pirtle
Attorney at Law
300 South Second Street, 2nd Floor
Columbus, Ohio 43215

For the County
Appellees - Ron O'Brien
Franklin County Prosecuting Attorney
Paul Stickel
Assistant Prosecuting Attorney
373 South High Street, 20th 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

Entered August 12, 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 and the statutory transcript certified to this board by the county board of revision. All parties waived their appearance at a hearing before this board and accordingly, this matter is deemed to be submitted upon the record before us.

The subject parcels, which consist of residential vacant land, are in the Plain Township – Plain Local school district taxing district and are identified on the auditor’s records as parcel numbers 220-1760 and 220-1764. The value of the parcels, as determined by the county auditor and by the board of revision, is as follows:

	#220-1760 AUDITOR	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 43,700	\$ 15,300
Building	-0-	-0-
Total	\$ 43,700	\$ 15,300

	BOARD OF REVISION	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 47,600	\$ 16,660
Building	-0-	-0-
Total	\$ 47,600	\$ 16,660

	#220-1764 AUDITOR	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 121,300	\$ 42,460
Building	-0-	-0-
Total	\$ 121,300	\$ 42,460

BOARD OF REVISION

	TRUE VALUE	TAXABLE VALUE
Land	\$ 132,400	\$ 46,340
Building	-0-	-0-
Total	\$ 132,400	\$ 46,340

In its notices of appeal, the appellant Planet Investment has alleged that the correct true values for the subject parcels are those that were assigned by the county auditor.

Specifically, herein, in February 2004, relying upon the sale of the subject property in June 2003 for \$180,000, the board of education filed a complaint against the valuation of real property with the Franklin County Board of Revision seeking an increase in the subject's value. The property owner sought dismissal of the complaint filed by the BOE, claiming that the BOR lacked jurisdiction to consider the BOE's complaint because it constituted a prohibited second filing within a triennial period.¹ The board of revision disagreed and ultimately increased the subject's value to reflect the June 2003 sale price. S.T. at Ex. 6, 9.

We begin our review of this matter 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),

¹ The property owner made the same argument to this board by way of a motion to remand the instant matter to the BOR with instructions to dismiss the underlying complaint. In our decision, *Planet Investment Corp. v. Franklin Cty. Bd. of Revision* (Interim Order, Jan. 28, 2005), BTA Nos. 2004-A-1205, 1206, unreported, we denied appellant's motion, finding that "the property owner has not proven any statutory jurisdictional deficiencies with respect to the filing of the BOE's second complaint [for 2003]." Id. at 6. We determined that the second sale of the subject property in June 2003 had not been considered by the BOR in its earlier valuation of the subject property under the tax year 2002 complaint, and, as such, the BOR properly exercised jurisdiction over the tax year 2003 complaint.

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.

Because no party appeared before this board to offer any evidence or testimony regarding the subject, it is necessary to review the record established before the board of revision consistent with the Supreme Court's decision in *Black v. Cuyahoga Cty. Bd. of Revision* (1985), 16 Ohio St.3d 11:

“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 formal determination is more than a mere rubber stamping of the board of revision's determination. ***.” *Id.* at 13-14.

See, also, *Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision*, 76 Ohio St.3d 13, 15, 1996-Ohio-432 (“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.”).

As we review the statutory transcript certified to this board by the board of revision, we note that counsel appeared on behalf of both the complainant board of education and the property owner. As evidence of the sale in question, the BOE offered a copy of the general warranty deed transferring the subject property and the related conveyance fee statement. S.T. at Ex. 6. Counsel for the board of education contends that the sale constitutes a valid, recent, arm’s-length sale, and, as such, the transfer price should be considered the best evidence of the value of the subject parcels 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, since the board of education has submitted competent evidence of the recent sale, the burden shifts to the opposing parties to submit evidence that the sale was not arm’s length. No

competent or probative evidence rebutting the presumption that the sale price is the best evidence of value is contained within the record. Accordingly, this board finds that the best evidence of value of the subject parcels is the sale price paid in June 2003.

Therefore, based upon the record before this board, the value of the subject parcels as of January 1, 2003, shall be as follows:

	#220-1760	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 47,600	\$ 16,660
Building	-0-	-0-
Total	\$ 47,600	\$ 16,660

	#220-1764	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 132,400	\$ 46,340
Building	-0-	-0-
Total	\$ 132,400	\$ 46,340

The Auditor of Franklin County is hereby ordered to cause his records to reflect the value determined herein for the subject real property and to assess the same in accordance therewith as provided by law.

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