

OHIO BOARD OF TAX APPEALS

Brunswick City School District Board of Education,)	
)	
)	CASE NOS. 2004-A-582,
)	2004-A-583, 2004-A-584
Appellant,)	
)	(REAL PROPERTY TAX)
vs.)	
)	DECISION AND ORDER
Medina County Board of Revision, Medina County Auditor, and Hickory Hill Apartments, L.P.,)	
)	
)	
Appellees.)	

APPEARANCES:

For the Appellant - Britton, Smith, Peters & Kalail Co., LPA
David H. Seed
Summit One, Suite 540
4700 Rockside Road
Cleveland, Ohio 44131-6814

For the County
Appellees - Dean Holman
Medina County Prosecuting Attorney
Katharina E. Devanney
Assistant Prosecuting Attorney
72 Public Square
Medina, Ohio 44256-2279

For the Appellee
Property Owner -NO APPEARANCE
Hickory Hill Apartments, L.P.
1430 Millersport Highway
Williamsville, NY 14221

Entered March 18, 2005

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

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

decisions of the Medina 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 transcripts certified to this board by the county board of revision. All parties waived their appearance at a hearing before this board and although all were given an opportunity to do so, only the appellant board of education filed a brief.

The subject parcels, on which apartments are located, are in the Brunswick city school district taxing district and are identified on the auditor's records as parcel numbers 03-18B-12-007, 03-18B-07-264, and 03-18B-07-296. The value of the parcels, as determined by the county auditor and retained by the board of revision, is as follows:

	#03-18B-12-007	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 160,820	\$ 56,290
Building	2,292,100	802,250
Total	\$2,452,920	\$ 858,540

	#03-18B-07-264	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 145,160	\$ 50,810
Building	1,904,440	666,550
Total	\$2,049,600	\$ 717,360

	#03-18B-07-296	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 335,500	\$ 117,430
Building	1,965,500	687,940
Total	\$2,301,000	\$ 805,370

In its notices of appeal, the appellant board of education has alleged that the correct true values for the subject parcels are \$2,852,500 (#03-18B-12-007), \$2,381,500 (#03-18B-07-264), and \$2,616,000 (#03-18B-07-296), based upon sales of the subject in December 2003. In March 2004, relying upon the sale prices obtained, the board of education filed complaints against the valuation of real property with the Medina County Board of Revision seeking increases in the subject's values. The board of revision ultimately declined to change the values assigned by the auditor "[b]ased upon the fact that the sale was only days¹ before the tax lien date." S.T. at Ex. D.

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), 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

¹ In fact, as established by the deeds and conveyance fee statements in the record, the sales in question occurred approximately 12 months after tax lien date.

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 records 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 transcripts certified to this board by the board of revision, we note that counsel appeared on behalf of the complainant board of education but no one appeared on behalf of the property owner. For each of the three sales in question, the BOE offered a copy of the limited warranty deed transferring the subject property and the related conveyance fee statement. Counsel for the board of

education contends that the sales constitute valid, recent, arm's-length sales, 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. Further, the court has said that “the BTA ‘ *** may consider pre- and post-tax lien date factors that affect the true value of the taxpayer's property on the tax lien date.’ *Youngstown Sheet and Tube Co. v. Mahoning Cty. Bd. of Revision* (1981), 66 Ohio St.2d 398 *** .” *Olmsted Falls Village Assn. v. Cuyahoga Cty. Bd. of Revision* (1996), 75 Ohio St.3d 552, 555. Thus, since the board of education has submitted competent evidence of the recent² sales,

² In the absence of any evidence indicating otherwise, e.g., rapidly changing market conditions, we find the evidence of the sale of the subject approximately 12 months after tax lien date is sufficiently recent for tax valuation purposes. See *Equity Strongsville II. v. Cuyahoga Cty. Bd. of Revision* (Feb. 2, 1996), BTA Nos. 1994-M-163, et seq., unreported; *Hilliard City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1990), 53 Ohio St.3d 57; *Bd. of Edn. for the Orange City School District v. Cuyahoga Cty. Bd. of Revision* (May 17, 2002), BTA Nos. 2000-R-880, et seq., unreported; *Bowman v. Franklin Cty. Bd. of Revision* (March 6, 1998), BTA No. 1996-A-470, unreported.

the burden shifts to the opposing parties to submit evidence that the sales were not arm's length. No competent or probative evidence rebutting the presumption that the sale prices are 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 prices paid in December 2003.

Therefore, based upon the record before this board, the value³ of the subject parcels as of January 1, 2003, shall be as follows:

	#03-18B-12-007	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 199,680	\$ 69,890
Building	2,652,820	928,490
Total	\$2,852,500	\$ 998,380

	#03-18B-07-264	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 166,700	\$ 58,350
Building	2,214,800	775,180
Total	\$2,381,500	\$ 833,530

	#03-18B-07-296	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 392,400	\$ 137,340
Building	2,223,600	778,260
Total	\$2,616,000	\$ 915,600

The Auditor of Medina 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.

ohiosearchkeybta

³ The subject land and building values have been assigned in the same proportion as that which the auditor utilized in each of the parcel's initial valuations.