

OHIO BOARD OF TAX APPEALS

Canton City School District Board of Education,)	
)	
Appellant,)	CASE NO. 2004-A-888
)	
vs.)	(REAL PROPERTY TAX)
)	
)	DECISION AND ORDER
Stark County Board of Revision, Stark County Auditor, and GS Realty, Ltd.,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant - Means, Bichimer, Burkholder & Baker Co., LPA
Robert M. Morrow
2006 Kenny Road
Columbus, Ohio 43221-3502

For the County Appellees - John D. Ferrero, Jr.
Stark County Prosecuting Attorney
David M. Bridenstine
Assistant Prosecuting Attorney
110 Central Plaza South, Suite 510
P.O. Box 20049
Canton, Ohio 44701-0049

For the Appellee Property Owner -NO APPEARANCE
GS Realty, Ltd.
P.O. Box 487
Hartville, Ohio 44632

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 a notice of appeal filed herein by the above-named appellant from a

decision of the Stark County Board of Revision. In said decision, 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 notice of appeal and the statutory transcript certified to this board by the county board of revision. By letter, counsel to the board of education waived the BOE's appearance at a hearing and counsel to the county appellees also waived their right to appear. The appellee property owner made no appearance herein.

The subject property is located in the 02-Canton City-Canton City School District taxing district and is identified on the auditor's records as parcel numbers 02-45465 and 02-45466. The value of the parcels, as determined by the county auditor and retained by the board of revision, is as follows:

	PARCEL #02-45465	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 3,300	\$ 1,160
Building	-0-	-0-
Total	\$ 3,300	\$ 1,160

	PARCEL #02-45466	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 75,800	\$ 26,530
Building	796,300	278,710
Total	\$872,100	\$ 305,240

In its notice of appeal, the appellant board of education has alleged that the correct total value for the subject parcels is \$1,400,000 based upon a sale of the subject on March 4, 2003. In March 2004, relying upon the sale price obtained, the board of education filed a complaint against the valuation of real property with the Stark County Board of Revision seeking an increase in the subject's value. The board

of revision ultimately declined to change the values assigned by the auditor for tax year 2003, but indicated in its decision letter that it would increase the subject's value for tax year 2004 to the sale price of \$1,400,000.

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 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 the complainant board of education but no one appeared on behalf of the property owner. The BOE offered a copy of a warranty deed transferring the subject property on March 4, 2003 to GS Realty, Ltd. into evidence. Included on the deed is information from the county auditor indicating the subject property was transferred on March 4, 2003, for \$1,400,000. Also included was a copy of the conveyance fee statement from the transaction which confirmed the foregoing information. Counsel for the board of education contends that this 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 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.

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 property is its \$1,400,000 sale price paid on March 4, 2003.

Therefore, based upon the record before this board, the value¹ of the subject parcels as of January 1, 2003, shall be as follows:

	PARCEL #02-45465	
	TRUE VALUE	TAXABLE VALUE
Land	\$ 5,600	\$ 1,960
Building	-0-	-0-
Total	\$ 5,600	\$ 1,960

¹ The subject parcel values, as well as the land and building values on each parcel, have been assigned in the same proportion as that which the auditor utilized in the subject’s initial valuation.

PARCEL #02-45466

	TRUE VALUE	TAXABLE VALUE
Land	\$ 125,500	\$ 43,930
Building	1,268,900	444,110
Total	\$1,394,400	\$ 488,040

The Auditor of Stark 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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