

OHIO BOARD OF TAX APPEALS

Casey Jones, Jr.,)
)
 Appellant,) (REAL PROPERTY TAX)
)
 vs.) DECISION AND ORDER
)
 Montgomery County Board of Revision,)
 and Montgomery County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Casey Jones, Jr., pro se
1314 Amherst Place
Dayton, Ohio 45406-5034

For the Appellees - Mathias H. Heck, Jr.
Montgomery County Prosecuting Attorney
Douglas M. Trout
Assistant Prosecuting Attorney
301 West Third Street
5th Floor
P.O. Box 972
Dayton, Ohio 45402

Entered June 24, 2005

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

The Board of Tax Appeals is considering this matter pursuant to a notice of appeal filed by Casey Jones, Jr. (“appellant”). The appellant has appealed from a decision of the Montgomery County Board of Revision (“BOR”) that determined the value of the subject real property for tax year 2003. The property is located in the city of Dayton and is identified on the auditor’s records as parcel R72-72-6-10.

The value determined by the Montgomery County Auditor is as

follows:

Parcel R72-72-6-10

	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,810	\$ 2,380
Building	0	0
Total	\$ 6,810	\$ 2,380

Parcel R72-72-6-11

	TRUE VALUE	TAXABLE VALUE
Land	\$ 13,250	\$ 4,640
Building	\$128,020	\$ 44,810
Total	\$141,270	\$ 49,450

Parcel R72-72-6-12

	TRUE VALUE	TAXABLE VALUE
Land	\$ 9,720	\$ 3,400
Building	0	0
Total	\$ 9,720	\$ 3,400

The value determined by the BOR is as follows:

Parcel R72-72-6-10

	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,810	\$ 2,380
Building	0	0
Total	\$ 6,810	\$ 2,380

Parcel R72-72-6-11

	TRUE VALUE	TAXABLE VALUE
Land	\$ 13,250	\$ 4,640
Building	\$104,970	\$ 36,740
Total	\$118,220	\$ 41,380

Parcel R72-72-6-12

	TRUE VALUE	TAXABLE VALUE
Land	\$ 9,720	\$ 3,400
Building	0	0
Total	\$ 9,720	\$ 3,400

The matter had been scheduled for hearing May 9, 2005 pursuant to assignment and notice. The appellant failed to appear at the hearing. Counsel for the The matter has been submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript certified by the BOR, and the evidence adduced at the hearing conducted herein.

We note that while a determination of value of real property by a board of revision is entitled to consideration, such determination is not presumptively valid. *Amsdell v. Bd. of Revision* (1994), 69 Ohio St.3d 572. On appeal a taxpayer may successfully challenge a determination of a board of revision only where the taxpayer produces competent and probative evidence which establishes his right to a reduction in value. *Rocco v. Cuyahoga Cty. Bd. of Revision* (1994), 71 Ohio St.3d 103; *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, 495; *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336, 337.

The appellant has the ultimate burden of persuasion as to the value of the property. He is obligated to bring forth sufficient competent and probative evidence to cause this board to conclude that the value assessed by the board of revision does not accurately reflect value. With the proper standard in mind we review the evidence submitted.

The subject property is a one-story residence constructed in 1915. It contains six rooms with three bedrooms, two bathrooms, a full basement, central air conditioning, a partially finished attic, a woodburning fireplace, and 3,378

square feet of gross living area. Counsel for the appellees appeared at the hearing and submitted the testimony and appraisal report of Mr. Gary Utt, an appraiser. Mr. Utt opined that the property is well built and adequately maintained. Its functional utility is average, with adequately sized rooms, ample closet space and an efficient layout. He determined value using a market approach analysis. The three sales used had adjusted sale prices of \$123,500, \$133,600, and \$157,500. Relying upon these sales, he concluded that the subject property had a value of \$138,000 as of the tax lien date. This conclusion is within a reasonable range and provides support for the BOR determination of \$134,750 for the property.

The appellant sought a reduction in value at the BOR upon the basis that although the property has been on the market since March 17, 2002 with an asking price of \$139,900, the house remains unsold. The highest verbal offer was \$80,000.

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 Dist. 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. An offer is a preliminary step in the process of negotiating a possible sale and may not represent the final sale price. The fact that the property has been listed but remains unsold at the asking price is not persuasive in determining a value for the property.

The appellant submitted real estate listings to the BOR suggesting that few properties in his area were listed within the range of the subject's value. The appellant also submitted sales, which suggested that only five properties within the vicinity of the subject sold in the five years prior to tax lien date and all five sold for less than \$118,000. However, the appellant has offered no analysis of these sales. From the data submitted the board is unable to determine whether the neighboring properties are comparable with the subject.

The tax valuations of the neighboring properties also are not helpful in determining the value of the subject property. "Tax valuations are not sales, and a comparative analysis thereof is always subject to the objection that the tax valuations of the compared properties are not themselves market value." *Caron v. Hamilton Cty. Bd. of Revision* (Aug. 27, 1993), BTA No. 1992-B-879, unreported; *Benit v. Delaware Cty. Bd. of Revision* (Mar. 28, 1994), BTA No. 1993-B-722, unreported. Merely showing that two parcels of property have different values without more does not establish that the tax authorities valued the properties in a different manner. *WJJK Investments Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29. From appellant's evidence alone the board cannot conclude that the auditor has inaccurately valued the neighboring properties or the subject property.

We conclude the appellant has failed to sustain his burden of proving that the value of the property is other than that established by the BOR. *Corporate Exchange Bldgs. IV & V, L.P. v. Franklin Cty. Bd. of Revision* (1998), 82 Ohio

St.3d 297; *Simmons v. Cuyahoga Cty. Bd. of Revision* (1998), 81 Ohio St.3d 47; *Luken v. Miami Cty. Bd. of Revision* (Sept. 19, 1997), BTA No. 1996-G-976, unreported.

Therefore, based upon a preponderance of the evidence the board finds and determines that the value of the subject property as of January 1, 2003 is as follows:

Parcel R72-72-6-10

	TRUE VALUE	TAXABLE VALUE
Land	\$ 6,810	\$ 2,380
Building	0	0
Total	\$ 6,810	\$ 2,380

Parcel R72-72-6-11

	TRUE VALUE	TAXABLE VALUE
Land	\$ 13,250	\$ 4,640
Building	\$104,970	\$ 36,740
Total	\$118,220	\$ 41,380

Parcel R72-72-6-12

	TRUE VALUE	TAXABLE VALUE
Land	\$ 9,720	\$ 3,400
Building	0	0
Total	\$ 9,720	\$ 3,400

The Auditor of Montgomery County is 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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