

OHIO BOARD OF TAX APPEALS

Isabel Reisser Ungurean,)
)
Appellant,) (REAL PROPERTY TAX)
)
vs.) DECISION AND ORDER
)
Coshocton County Board of Revision)
and the Coshocton County Auditor,)
)
Appellees.)

APPEARANCES:

For the Appellant - Isabel Reisser Ungurean, pro se
P.O. Box 110
Conesville, Ohio 43811

For the County Appellees - Robert J. Batchelor
Coshocton County Prosecuting Attorney
239 North Fourth Street
Coshocton, Ohio 43812

Entered March 18, 2005

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

This cause and matter comes to be considered by the Board of Tax Appeals upon a notice of appeal filed by appellant on July 26, 2004 from a decision, dated July 1, 2004, of the Coshocton County Board of Revision ("BOR"), appellee.

The subject properties are located in the Coshocton Corp., Coshocton School taxing district of Coshocton County, Ohio, and further identified as parcel nos. 043-00000698-00 and 043-00000700-00. The Coshocton County Auditor found the true and taxable values of the subject property for tax year 2003 to be as follows:

Parcel No. 043-00000698-00

	True Value	Taxable Value
Land	\$ 30,600	\$ 10,710
Building	\$ 830	\$ 290
Total	\$ 31,430	\$ 11,000

Parcel No. 043-00000700-00

	True Value	Taxable Value
Land	\$ 28,560	\$ 10,000
Building	\$ -0-	\$ -0-
Total	\$ 28,560	\$ 10,000

Upon consideration of the complaint filed by appellant, the BOR determined that the property was correctly assessed. Accordingly, the BOR affirmed the values assessed by the auditor.

Through her notice of appeal, appellant claims that the correct values for her parcels for tax year 2003 are as follows:

Parcel No. 043-00000698-00

	True Value	Taxable Value
Land	\$ 18,000	\$ 6,261
Building	\$ 830	\$ 290
Total	\$ 18,830	\$ 6,551

Parcel No. 043-00000700-00

	True Value	Taxable Value
Land	\$ 14,312	\$ 5,009
Building	\$ -0-	\$ -0-
Total	\$ 14,312	\$ 5,009

The matter was submitted to the Board of Tax Appeals pursuant to R.C. 5717.01 upon the notice of appeal and the statutory transcript certified by the Coshocton County Auditor as secretary of the BOR. The appellant waived hearing before this board and there was no appearance by or on behalf of the appellees. Thus,

the board will consider the matter under the standards enunciated in *Black v. Cuyahoga Cty. Bd. of Revision* (1985), 16 Ohio St.3d 11. The Ohio Supreme Court held in that case that a common pleas court reviewing the action of a board of revision was not required to hold a de novo hearing, but was required to make a thorough and comprehensive review of the evidence before it and make an independent determination as to value. The court later held this board to the same standard in *Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1996), 76 Ohio St.3d 13.

The subject properties appear to be two vacant lots zoned for commercial use. According to the testimony presented before the BOR, the lots are located between two other properties the appellant owns. The appellant bought the two lots for \$30,000 each in February 1996.

Appellant researched her neighboring properties and discovered that the assessed valuations on her two lots were higher than other commercial vacant lots located in the same vicinity. Because of this discovery, the appellant sought a reduction from the BOR. To support her claim that her property was overvalued, appellant presented the tax valuations of the other vacant lots she discovered. The BOR denied any reduction.

The appellant sought review by this board. She again argues that her property is taxed at a higher value than others in their neighborhood are. She indicates by way of a letter to this board that the comparable lots sold a year prior to her purchase for a much higher sales price remain at a lower value. Attached to her

notice of appeal are Coshocton County auditor records for two properties on Chestnut Street owned by Oxford Mining Company, Inc. Apparently, the appellant believes these records support her claim that her properties are overvalued.

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), 68 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.

Having noted the appropriate standard of review, we now proceed to determine the taxable value of the subject property. We first turn to the Ohio Revised Code for guidance. R.C. 5713.01 provides, in part:

"The auditor shall assess all the real estate situated in the county *** at its true value in money ***."

In determining what constitutes "true value in money," the Supreme Court has held that the best evidence of a property's fair market value or "true value in money" for tax purposes is the amount for which the property would sell on the open market between willing parties. *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410; *In Re Estate of Sears* (1961), 172 Ohio St. 443.

In other words, for real estate tax purposes, property must be valued at what that property would sell for in an arm's-length transaction. *Walters v. Knox County Board of Revision* (1989), 47 Ohio St.3d 23. However, not all property transfers within a period relevant to tax lien date. Thus, the county auditor, as real property assessor, contracts with a mass appraisal firm, which has the obligation to provide an opinion as to the value of each and every property within the county. Ohio Adm. Code 5703-25-08.

The appellant has provided to the BOR no evidence of the value of her property. She has only challenged the assessor's opinion with evidence of the assessor's opinion of other assessed properties. She provides no reason as to why this board should consider the assessor's opinion correct on other properties but not correct on hers. Tax valuations are not sales, but merely opinions of value that may or may not be equal to the market value of a particular property. *Haydu v. Portage Cty. Bd. of Revision* (June 18, 1993), BTA No. 1992-H-576, unreported.

Appellant suggests that neighboring properties have sold but their tax valuations remain lower. However, no such evidence was presented to this board.¹ Tax valuations of neighboring properties are not entitled to any weight when they are presented to support a change in the value of a contested property. In the present case, the accuracy of the assessments of the neighboring properties is questionable, given the fact that the appellant paid \$30,000 for each of her properties nearly seven years prior to tax lien date.

When the Board of Tax Appeals rejects evidence presented to it as not being competent, probative and credible, and there is no evidence from which the board can independently determine a value, it may approve the value determined by the county board of revision even though it did not present any evidence. *Simmons v. Cuyahoga Cty. Bd. of Revision* (1998), 81 Ohio St.3d 47. Therefore, we must find, by a preponderance of competent and probative evidence found in the record, that the correct values of the subject property as of tax year 2003 are as follows:

Parcel No. 043-00000698-00

	True Value	Taxable Value
Land	\$ 30,600	\$ 10,710
Building	\$ 830	\$ 290
Total	\$ 31,430	\$ 11,000

¹ The appellant attached certain information to her notice of appeal. However, “[a]s this Board has noted in the past, unsworn statements, made through a notice of appeal do not rise to the level of evidence upon which this Board can rely in making a determination. *Executive Express, Inc. v. Tracy* (Nov. 5, 1993), BTA No. 1992-P-880, unreported.” *Lynde v. Tracy* (Dec. 19, 1994), BTA No. 1994-M-111, unreported, at 4. Even if we were to consider the information attached to the notice of appeal, we do not find any indication that the properties owned by Oxford Mining Company, Inc. were purchased in 1995 or the amount for which they were purchased.

Parcel No. 043-00000700-00

	True Value	Taxable Value
Land	\$ 28,560	\$ 10,000
Building	\$ -0-	\$ -0-
Total	\$ 28,560	\$ 10,000

It is the order of the Board of Tax Appeals that the Auditor of Coshocton County list and assess the subject real property in conformity with this decision and order. It is further ordered that this value be carried forward in accordance with the law.

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