

OHIO BOARD OF TAX APPEALS

Albert B. Ratner, Trustee,)
)
 Appellant,) CASE NO. 2004-P-344
)
 vs.) (REAL PROPERTY TAX)
)
 Cuyahoga County Board of Revision,) DECISION AND ORDER
 Cuyahoga County Auditor, and the)
 Parma City School District Board)
 of Education,)
)
 Appellees.)

APPEARANCES:

For the Appellant Property Owner	- Thomas C. Simiele Attorney at Law 1540 Greenleaf Circle Cleveland, Ohio 44145
For the County Appellees	- William D. Mason Cuyahoga County Prosecuting Attorney Timothy J. Kollin Assistant Prosecuting Attorney Courts Tower, Ninth Floor 1200 Ontario Street Cleveland, Ohio 44113
For the Appellee Board of Education	- Robert A. Brindza Co., LPA Robert A. Brindza The Shaker Building 3645 Warrensville Center Road, Suite 219 Shaker Heights, Ohio 44122

Entered March 4, 2005

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

This matter is before us upon a notice of appeal filed on behalf of Albert B. Ratner, Trustee, in accordance with the provisions of R.C. 5717.01. The record before us consists of the notice of appeal, the statutory transcript, and the record from the merit hearing we conducted upon the matter. Appellant did not attend the hearing. No briefs have been filed.

The subject property is located in Parma, Ohio, and was operated as a bar and fitness center on the tax lien date of January 1, 2001. The Cuyahoga County Auditor placed a true value of \$3,479,500¹ upon the subject property for the 2001 tax year. Upon conducting a hearing upon the matter, the Cuyahoga County Board of Revision affirmed the auditor's value.

We begin by observing that a party who asserts a right to an increase or a decrease in the value of real property has the burden to prove the value it asserts. *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. It is incumbent upon a party challenging the decision of a board of revision to come forward and offer evidence that demonstrates its right to the value it seeks. *Cleveland Bd. of Edn., supra*, *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493. As we noted above, no one appeared on behalf of the property owner at our merit hearing. The Supreme Court addressed our obligations in such circumstances in *Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1996), 76 Ohio St.3d 13:

“We find that the BTA in this case is required to meet the standard enunciated in *Black*.² 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.” *Id.* at 15.

¹ Taxable value = \$1,217,830.

² *Black v. Cuyahoga Cty. Bd. of Revision* (1985), 16 Ohio St.3d 11.

In the matter sub judice the statutory transcript reflects that no testimonial evidence was offered before the board of revision. Only counsel appeared on behalf of the property owner at the board of revision's hearing. Counsel argued that the value placed upon the subject property by the auditor is incorrect. He predicates his argument upon the sale of a portion of the subject property that occurred on June 30, 2003 - - - two-and-one-half years after the January 1, 2001 tax lien date - - - for \$1,500,000. Upon careful review, however, we are unable to find that this sale taken by itself constitutes competent, credible, probative evidence of the value of the entire tax parcel as it existed on the tax lien date. We have no meaningful way to relate the sale price for a portion of the subject property to the value of the whole property, particularly given the lengthy time period between the tax lien date and the sale date. Under such circumstances, we are unable to find that the appellant has satisfied his assigned evidentiary burden. *Cleveland Bd. of Edn.*, supra, *Crow*, supra, *Mentor Exempted Village Bd. of Edn.*, supra, *Cleveland Bd. of Edn.*, supra, *Springfield Local Bd. of Edn.*, supra.

Accordingly, we find that the taxable value of the subject property is as follows as of the January 1, 2001 tax lien date:

TAXABLE VALUE

<u>PERMANENT PARCEL NO.</u>	<u>LAND</u>	<u>BUILDING</u>	<u>TOTAL</u>
449-27-012	\$371,840	\$845,990	\$1,217,830

The Cuyahoga County Auditor is directed to reflect these values upon

his records and to cause the same to be carried forward in accordance with applicable law.

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