

Trotwood-Madison City School District,)	
)	
Appellant,)	CASE NO. 95-S-1281
)	
vs.)	
)	(REAL PROPERTY TAX)
Montgomery County Board of Revision,)	
Montgomery County Auditor & Continental 39 Fund Ltd. Partnership,)	
)	DECISION & ORDER
)	
Appellees.)	

APPEARANCES:

For the Appellant	-	Elizabeth Grooms Taylor Whalen & Compton Co., L.P.A. 565 Wolf Ledges Parkway P.O. Box 2020 Akron, Ohio 44309-2020
For the County Appellees	-	Mat Heck, Jr. Montgomery County Prosecuting Attorney By: Brian R. McHenry Assistant Prosecuting Attorney Dayton-Montgomery Cty. Courts Bldg. P.O. Box 972 301 West Third Street Dayton, Ohio 45422
For the Appellee Property Owner	-	Barbara M. Knight Carlile, Patchen & Murphy 366 East Broad Street Columbus, Ohio 43215

Entered: June 30, 1997

Mr. Johnson, Ms. Jackson and Mr. Manoranjan concur.

This appeal is considered by the Board of Tax Appeals pursuant to a notice of appeal filed herein by the above-named appellant. The appeal is taken from a final decision of the Montgomery County Board of Revision which determined the value of

the subject real property for tax year 1994.

The property which is the subject of this appeal consisted, as of tax lien date, of a 9.461 acre tract of vacant land located within the Trotwood Corporation taxing district, and is identified on the auditor's records as parcel number H33-8-7-1.

The value of the property determined by the Montgomery County Auditor and Montgomery County Board of Revision (BOR) is as follows:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 618,200	\$ 216,370
Building	0	0
Total	\$ 618,200	\$ 216,370

Appellant contends that the Montgomery County Auditor and Board of Revision have substantially undervalued the subject property. Appellant contends that the true and taxable value of the subject property as of January 1, 1994 should be:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$3,136,724	\$1,097,850
Building	0	0
Total	\$3,136,724	\$1,097,850

Herein, Continental 39 purchased the subject property on March 10, 1994 from the Beerman Realty Corporation for \$1,097,850. Following this sale, the appellant Board of Education (BOE) filed a complaint with the BOR seeking to increase the value of the subject property to correspond with the sale price. The BOR rejected the BOE's contentions that the sale price was indicative of the true

value of the subject property. Herein, appellant argues that the March 10, 1994 sale constitutes a valid, recent arm's length sale, and, as such, the BOR erred in rejecting the price received as the best evidence of value of the subject property as of January 1, 1994.

Due to issues raised by the parties herein, we first review the underlying complaint which was filed with the BOR on January 2, 1995. This complaint, DTE Form 1, was filed by the Trotwood-Madison City School District (BOE) and listed parcel numbers H33-8-7-2, H33-8-7-1 and H33-8-7-4. On this complaint, the BOE listed the owner of the property as Continental 41 Funds Limited Partnership (Continental 41). Continental 41, at all times relevant hereto, owned parcel number H33-8-7-2. However, parcel number H33-8-7-4 was owned by Continental 40 Fund Limited Partnership (Continental 40), and parcel number H33-8-7-1 was owned by Continental 39 Fund Limited Partnership (Continental 39).

Continental 41 filed a counter-complaint with the BOR, seeking to retain the 1993 values for the subject property. In addition, Continental 41 sought to have the complaint filed by the BOE dismissed as it relates to the parcels which were not owned by Continental 41.

This appeal is companion case to B.T.A. Case No. 95-S-1282, decision announced this date. In our decision we addressed the issues presented in this case. Our analysis and reasoning in that case are dispositive of the present appeal. Accordingly, based upon a consideration of the existing record and the applicable law, the Board of Tax Appeals finds and determines that

the appellant's failure to list Continental 39 as the owner of the subject property on the complaint was a substantive error or omission justifying the dismissal of the complaint as it relates to parcel number H33-8-7-1. Accordingly, the BOR erred in finding value. The Board of Tax Appeals hereby orders that this matter be dismissed.

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