

**OHIO BOARD OF TAX APPEALS**

Joe Sabino, Trustee,	)	
	)	
Appellant,	)	CASE NO. 99-A-1695
	)	
vs.	)	(REAL PROPERTY TAX)
	)	
Hamilton County Board of Revision and	)	DECISION AND ORDER
Hamilton County Auditor,	)	
	)	
Appellees.	)	
	)	

APPEARANCES:

For the Appellant - Joe Sabino, *pro se*  
c/o 11873 Nathanshill Ln.  
Cincinnati, Ohio 45249

For the County Appellees - Michael K. Allen  
Hamilton County Prosecuting Attorney  
By: Thomas J. Scheve  
Assistant Prosecuting Attorney  
230 East Ninth Street, Suite 700  
Cincinnati, Ohio 45202-2151

Entered May 26, 2000

Mr. Johnson, Ms. Jackson, and Mr. Manoranjan 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 Hamilton County Board of Revision. In said decision, the

board of revision determined the taxable value of the subject property for tax years 1997 and 1998.

The matter was submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript certified to this Board by the county board of revision, and the record of the hearing before this Board.

The subject real property, 1.75 acres of vacant land, is located in the 212-Symmes Twp.-Sycamore taxing district, Hamilton County, Ohio, and appears on the auditor's records as parcel number 620-0190-0127-00. The subject is situated in an area of mixed usages, including both residential and commercial, although it is zoned residential. A condominium complex and a day care facility are adjacent to the subject. The value of the parcel, as determined by the auditor and the board of revision, is as follows:

AUDITOR

	TRUE VALUE	TAXABLE VALUE
Land	\$ 200,000	\$ 70,000
Bldg	-0-	-0-
Total	\$ 200,000	\$ 70,000

BOARD OF REVISION

	TRUE VALUE	TAXABLE VALUE
Land	\$ 131,000	\$ 45,850
Bldg	-0-	-0-
Total	\$ 131,000	\$ 45,850

In his notice of appeal, appellant contends that the board of revision erred in failing to reduce the subject's true value to \$114,300, as recommended by a licensed appraiser from the Hamilton County Auditor's office, who appeared at the board of revision hearing.

Initially, this Board notes the decisions in *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St. 3d 336, 337, and *Springfield*

*Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St. 3d 493, 495, wherein the Supreme Court held that an appealing party has the burden of coming forward with evidence in support of the value which it has claimed. Once competent and probative evidence of true value has been presented, the opposing parties then have a corresponding burden of providing evidence that rebuts appellant's evidence of value. *Id.*; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St. 3d 318, 319.

When determining value, it has long been held by the Supreme Court that "the best evidence of 'true value in money' of real property is an actual, recent sale of the property in an arm's-length transaction," *Conalco v. Bd. of Revision* (1977), 50 Ohio St. 2d 129; *State, ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. Absent a recent sale, as in the instant matter, true value in money can be calculated by applying any of three alternative methods provided for in OAC 5705-3-03: 1) the market data approach, which compares recent sales of comparable properties, 2) the income approach, which capitalizes the net income from the property, and 3) the cost approach, which depreciates the improvements to the land and then adds them to the land value.

At the board of revision hearing, appellant appeared, but offered no evidence of value. The school board, appeared through counsel at the board of revision and offered no evidence to support the auditor's \$200,000 value, which it supported.<sup>1</sup> The county auditor's appraiser offered an appraisal report (S.T., Ex. 1), utilizing the sales comparison approach to determine value. William A. Grauvogel, a state certified residential appraiser, compared the subject to two land sales, dating from July 1994 and February 1998. After adjusting the sales for date of transfer, location, and/or size/acreage, he arrived at an adjusted value of \$1.50 per square foot, or \$114,300, the value which he recommended to the board of revision.

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<sup>1</sup> Upon issuance of a show cause order on December 3, 1999, to establish the school board's standing as a party, the school board withdrew from this appeal.

Upon their review of his report, the board decided to use Mr. Grauvogel's unadjusted sale price for the second comparable as the subject's value, i.e., \$1.72 per square foot, or \$131,000 (rounded). Board member Carl Pratt stated at the hearing that "Mr. Grauvogel, upon his initial valuation, was coming at a \$1.50. I think considering all the testimony we've had and the land we've got in question at this point, I think comparable 2 is actually closer. It appears, at least at this point, that the current value could be questionable on this value. But I'm willing to conceive that at \$1.72 the subject property would be worth the amount of \$131,000 rounded." (S.T., p. 19-20)

At the hearing before this Board, appellant's witness offered no evidence of value, other than to indicate appellant's support of the county appraiser's report offered at the board of revision. The county auditor's counsel offered no additional evidence of value.

Upon review of the record before us, we agree with appellant's contentions and find that the appraisal report contained in the statutory transcript and offered to the board of revision is the competent and probative evidence of value. There is no evidence in the record to justify the action taken by the board of revision to increase the value suggested by the county's appraiser. While the board of revision clearly appeared to accept the premise upon which the appraisal report was completed, (i.e., since the property was zoned residential, it had to be valued residential, regardless of the increasing commercial zoning in the immediate area), it chose to make the ultimate value determination, by substituting the members' individual perceptions for the opinion of the auditor's expert witness.

Accordingly, upon the record before us, the Board of Tax Appeals finds from the uncontroverted evidence that the value of the subject for tax years 1997 and 1998 shall be:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 114,300	\$ 40,000

Bldg	-0-	-0-
Total	\$ 114,300	\$ 40,000

It is the Decision and Order of the Board of Tax Appeals that the Hamilton County Auditor shall list and assess the subject property in conformity with this decision.