

OHIO BOARD OF TAX APPEALS

Board of Education of the Olentangy)
Local Schools,)
Appellant,) Case No. 00-A-1669
vs.) (Real Property Tax)
Delaware County Board of Revision,)
Delaware County Auditor, and R. Corp/)
SS. Ltd.,) DECISION AND ORDER
Appellees.)

APPEARANCES:

For the Appellant - Rich, Crites, & Wesp
Mark H. Gillis
20 East Broad Street
3rd Floor
Columbus, Ohio 43215-3682

For the County Appellees - W. Duncan Whitney
Delaware County Prosecuting Attorney
Courthouse
Delaware, Ohio 43015

For the Appellee Property Owner - NO APPEARANCE
R. Corp/ SS. Ltd.
5150 Pine Creek Drive
Westerville, Ohio 43081

Entered: December 14, 2001

Mr. Johnson, Ms. Jackson, and Ms. Margulies 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 Delaware County Board of Revision. In said decision, the board of revision determined the taxable value of the subject real property for tax year 1999.

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. Neither the appellee property owner nor the county appellees appeared at said hearing, although duly notified by letter of the date and time of said hearing.¹

The subject property is located in the Orange Township/Olentangy Local Schools taxing district and is identified on the auditor's records as parcel numbers 318-424-09-004-000, 318-424-09-007-000, 318-424-09-009-000, 318-424-09-017-000, 318-424-09-019-000, 318-424-09-015-000, 318-424-09-012-000, 318-424-09-008-000, and 318-424-09-001-000. The total value of the parcels, as determined by the county auditor and retained by the board of revision, is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 174,500	\$ 61,110
Building	-0-	-0-
Total	\$ 174,500	\$ 61,110

In its notice of appeal, the appellant board of education has alleged that the correct value is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 630,000	\$ 220,500
Building	-0-	-0-
Total	\$ 630,000	\$ 220,500

The property under consideration was sold October 19, 1999 for \$630,000. In March 2000, relying upon the sale price obtained, the board of education filed a complaint against the valuation of real property with the Delaware

¹ This Board notes that the hearing notice for the property owner, R. Corp/ SS. Ltd., was returned to this Board as undeliverable to the address provided us by the county board of revision. We also note that the board of revision's decision letter was also returned to the board of revision as undeliverable

County Board of Revision seeking an increase in the subject's value. The board of revision ultimately declined to change the values assigned by the auditor.²

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), 37 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. The statutory transcript includes a warranty deed transferring the subject property on October 19, 1999 to R Corp. / SS. Ltd. The conveyance fee statement is also included, indicating a transfer of the real property on October 19, 1999, for \$630,000. Counsel contends that this sale

to that same address. Attempts were made by this Board to locate the property owner's address, including searching the telephone directory, but to no avail.

² This appeal is one among a series of complaints upon which the BOR declined to determine value based upon a 1999 sale and resultant lot split by the auditor occurring after tax lien date January 1, 1999. In *Big Walnut City Schools Bd. of Edn. v. Delaware Cty. Bd. of Revision, et al.* (Sep. 7, 2001), B.T.A. No. 00-R-1702, *unreported*, upon the same circumstances, we held that the BOR had authority to determine value for the year 1999, and accepted the sale price as true value.

constitutes a valid, recent arm's-length sale, and, as such, the transfer price should be considered the best evidence of the value of the subject property as of January 1, 1999.

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 ***.”

Further, R.C. 5713.03 provides:

“In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor shall consider the sale price *** to be the true value for taxation purposes.”

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 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. Further, we have previously held that a copy of a real property conveyance fee statement, not otherwise controverted, is competent and probative evidence of value in an arm's-length sale. See *Bd. of Edn. of the Princeton School Dist. v. Butler Cty. Bd. of Revision* (Dec. 20, 1991), B.T.A. No. 90-J-920, unreported; *Bounds, MAI v. Butler Cty. Bd. of Revision*, (August 7, 1992), B.T.A. No. 90-M-838, unreported. *Bd. of Edn. of the Princeton School Dist. v. Butler Cty. Bd. of Revision* (Jan. 28, 1993), B.T.A. No. 90-J-830, unreported.

Since the board of education has submitted competent evidence of the recent sale, the burden shifts to the opposing parties to submit evidence that the sale was not arm's-length. No competent or probative evidence rebutting the presumption that the sale price is the best evidence of value is contained within the record. Accordingly, this Board finds that the best evidence of value of the subject property is its \$630,000 sale price paid on October 19, 1999.

Therefore, based upon the record before this Board, we determine that the total value of the subject parcels as of January 1, 1999 shall be as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 630,000	\$ 220,500
Building	-0-	-0-
Total	\$ 630,000	\$ 220,500

The Auditor of Delaware County is hereby ordered to allocate the foregoing total true value among the subject parcels and cause his records to reflect such total value determined herein for such parcels and to assess the same in accordance therewith as provided by law.

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