

OHIO BOARD OF TAX APPEALS

Board of Education of the Westerville)	
City Schools,)	
)	Case No. 00-A-1710
Appellant,)	
)	
)	(Real Property Tax)
vs.)	
)	
)	DECISION AND ORDER
Delaware County Board of Revision,)	
Delaware County Auditor, and Barrett)	
Mortgage Services, Inc.,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant -	James R. Gorry Rich, Crites & Wesp 20 East Broad Street 3 rd Floor Columbus, Ohio 43215-3682
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For the County Appellees -	W. Duncan Whitney Delaware County Prosecuting Attorney Courthouse Delaware, Ohio 43015
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For the Appellee Property Owner -	NO APPEARANCE Ed Klekotka Barrett Mortgage Services, Inc. 9494 Wedgewood Blvd. Powell, Ohio 43065
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Entered: February 15, 2002

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. Although duly notified by letter of the date and time of said hearing, neither the appellee property owner nor the county appellees made an appearance.

The subject property is located in the Genoa Township/Westerville City Schools taxing district and is identified on the auditor's records as parcel numbers 317-432-09-002-000, 317-432-09-004-000, and 317-432-09-012-000. The value of each of the parcels, as determined by the county auditor and retained by the board of revision, is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 9,900	\$ 3,470
Building	-0-	-0-
Total	\$ 9,900	\$ 3,470

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

	TRUE VALUE	TAXABLE VALUE
Land	\$ 44,000	\$ 15,400
Building	-0-	-0-
Total	\$ 44,000	\$ 15,400

The property under consideration was sold November 8, 1999 for \$132,000. 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

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.¹

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 November 8, 1999 to Barrett Mortgage Services, Inc. The conveyance fee statement is also included, indicating a transfer of the real property on November 8, 1999, for \$132,000. Counsel contends that this sale constitutes a valid, recent, arm's-length sale, and, as such, the transfer

¹ 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),

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.

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.

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 \$132,000 sale price paid on November 8, 1999.

Therefore, based upon the record before this Board, we determine that the value of each of the subject parcels, #317-432-09-002-000, #317-432-09-004-000, and #317-432-09-012-000, as of January 1, 1999, shall be as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 44,000	\$ 15,400
Building	-0-	-0-
Total	\$ 44,000	\$ 15,400

The Auditor of Delaware County is hereby ordered to cause his records to reflect the value determined herein for the subject real property and to assess the same in accordance therewith as provided by law.

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