

# OHIO BOARD OF TAX APPEALS

Brian Vincent Chambers,	)	CASE NO. 00-A-2045
	)	
Appellant,	)	(REAL PROPERTY TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Hamilton County Board of Revision and	)	
Hamilton County Auditor,	)	
	)	
Appellees.	)	

## APPEARANCES:

For Appellant -	Brian Vincent Chambers, <i>pro se</i> 6331 Blueberry Hill Court Cincinnati, Ohio 45248
For the County Appellees -	Michael K. Allen Hamilton County Prosecuting Attorney By: Thomas J. Scheve Assistant Prosecuting Attorney 230 East Ninth Street, Suite 4000 Cincinnati, Ohio 45202-3018

ENTERED: November 9, 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 Hamilton County Board of Revision (“BOR”). In said decision, the board of revision determined the taxable value of the subject 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

(“S.T.”), and the record of the hearing before this Board, at which the county appellees waived their appearance and submitted the matter on the basis of the record.

The subject property is located in Hamilton County, Ohio and is identified on the auditor’s records as parcel number 550-0253-0050-00. The two-story house was built in 1988 on a 98’ x 222’ lot and consists of 4 bedrooms, 2.5 bathrooms, a 2-car garage, a patio, and an in-ground swimming pool. The Hamilton County Auditor determined the true and taxable values of the subject property to be as follows:

	TRUE VALUE	TAXABLE VALUE
LAND	\$28,900	\$10,120
BLDG	\$192,600	\$67,410
TOTAL	\$221,500	\$77,530

The appellant, Brian Chambers (“Mr. Chambers”), filed a complaint with the BOR seeking a decrease in the subject’s true value to \$180,000. Mr. Chambers presented a “Uniform Residential Appraisal Report” prepared by a state certified appraiser, Steven J. Papin, CA-S, CRP (“Mr. Papin”), in support of his opinion of value. Mr. Papin was supervised in the completion of his appraisal by Patrick C. Berding, ASA-S, SRA, CA-S, also a state certified appraiser. Mr. Papin did not appear at the hearing before the BOR. The appraisal report used both the cost and sales comparison approaches, concluding that the value of the property was \$186,984 and \$177,000, respectively. The appraisal report presented by Mr. Chambers at the BOR hearing was prepared as of January 9, 1998, approximately one year prior to the January 1, 1999 tax lien date.

The Hamilton County Auditor’s office also presented evidence in the form of an appraisal report at the hearing before the BOR. The auditor’s report was prepared by Antoinette Ebert, a state certified residential appraiser, and estimated the market value of the subject property as of the January 1, 1999 tax lien date. Ms. Ebert was present at the BOR hearing and testified in support of her appraisal report. Ms. Ebert relied primarily on the sales comparison approach in arriving at her conclusion that the subject property had a fair market value of \$205,000. She decided not to rely on the cost approach due to the age of the subject and the unreliability of depreciation estimates.

After considering all of the evidence before it, the BOR reduced the value of the subject property for tax year 1999 and entered its decision as follows:

	TRUE VALUE	TAXABLE VALUE
LAND	\$28,900	\$10,120
BLDG	\$173,100	\$60,590
TOTAL	\$202,000	\$70,710

Mr. Chambers now appeals the decision of the BOR to this Board. 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, in which 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, the Ohio Supreme Court has long held 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 Ohio Adm. Code 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.

Mr. Chambers asserts that the true value of the subject property should be \$180,000. He arrived at this figure by adding his \$177,000 appraisal value to his estimated \$3,000 appreciation amount.

The appraisal presented by Mr. Chambers was performed as of January 9, 1998, for the purpose of refinancing his home. The appraiser, Mr. Papin, relied primarily on the analysis of three comparable properties in arriving at his final determination of value. Initially, we note that an appraiser’s opinion is always dependent upon the quality of the comparables found in the marketplace as well as the appraiser’s ability to make meaningful adjustments. *Cyclops Corp. v. Richland Cty. Bd. of Revision* (May 30, 1985), B.T.A. Nos. 82-A-566, *et seq.*, unreported. Upon our

review of Mr. Papin's report, we note there are three reasons why this Board will not utilize his opinion of value. First, Mr. Papin's appraisal report was dated as of January 9, 1998, approximately one year prior to the tax lien date in question. Unquestionably, market forces are not static; an appraisal report represents only one particular moment in time and may not necessarily be reflective of the value of the subject property as of a later tax lien date. *Stover v. Perry Cty. Bd. of Revision*, (Sept. 21, 2001), B.T.A. No. 00-A-1906, unreported; *Freshwater v. Belmont Cty. Bd. of Revision* (1997), 80 Ohio St.3d 26. Second, since Mr. Papin was not available for examination by all parties hereto and this Board, we cannot rely on the bare assertions made in his report. Lastly, as discussed by the county's appraiser, the three comparable properties cited by Mr. Papin, though facially similar to the subject property, are not all located within the same school district as the subject property. (S.T. 8, 11). Arguably, properties that are most "comparable" may be those located in the same school district. Frequently property values are driven by their respective school districts and will often fluctuate accordingly.

Further, we acknowledge that "Ohio law has long recognized that an owner of either real or personal property is, by virtue of such ownership, competent to testify as to the market value of the property." *Smith v. Padgett* (1987), 32 Ohio St.3d 344, 347. However, while a property owner may be competent to offer his opinion as to the value of his own property, his testimony must also be probative. Mr. Chambers' testimony at the hearing before the BOR revealed that his opinion of value was based solely upon his appraisal report plus three thousand dollars, as arbitrarily determined

by Mr. Chambers, to account for appreciation. Thus, this Board finds there is not sufficient probative evidence to justify reliance upon the appellant's suggested appreciation figure. Accordingly, based upon the foregoing, we find that appellant has not offered sufficient, probative evidence of the subject property's value for the tax year in question.

We find the opinion of the county's appraiser is supportive of the value determined by the BOR. Accordingly, we find that the preponderance of the evidence supports the value determined by the board of revision. It is our decision and order that the value of the subject property, as of January 1, 1999, shall be:

Parcel # 550-0253-0050-00

	TRUE VALUE	TAXABLE VALUE
LAND	\$28,900	\$10,120
BLDG	\$173,100	\$60,590
TOTAL	\$202,000	\$70,710

It is further ordered that the Hamilton County Auditor shall list and assess the subject property in conformity with this decision.

ohiosearchkeybta