

# OHIO BOARD OF TAX APPEALS

Board of Education of the Olentangy )  
Local Schools, )  
 )  
Appellant, ) CASE NO. 00-P-1701  
 )  
vs. ) (REAL PROPERTY TAX)  
 )  
Delaware County Auditor, Delaware ) DECISION AND ORDER  
County Board of Revision and Bob )  
Webb Builders, Inc., )  
 )  
Appellees. )

## APPEARANCES:

For the Appellant School District - Jeffrey Rich  
Rich, Crites & Wesp  
20 E. Broad Street  
Columbus, Ohio 43215

For the County Appellees - W. Duncan Whitney  
Delaware County Prosecuting Attorney  
By: Dane A. Gaschen  
Assistant Prosecuting Attorney  
15 West Winter Street  
Delaware, Ohio 43015

For the Property Owner - Dennis L. Pergram  
Dana S. Shelton  
Manos, Martin, Pergram and Dietz Co., LPA  
69 West Wilson Bridge Road, Suite 100  
Worthington, Ohio 43085-2301

Entered: December 14, 2001

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

This matter is before us upon a notice of appeal filed in accordance with the provisions of R.C. 5717.01. The Board of Education of the Olentangy Local Schools seeks review of the tax valuation placed upon thirteen recently split tax parcels for the 1999 tax year. Upon careful review of the record before us, we find value for each respective tax parcel in accordance with the sale evidence offered by the Board of Education of the Olentangy Local Schools.

The permanent index numbers in question did not exist on the tax lien date. Rather they were created after the tax lien date as “lot splits.” The Board of Education of the Olentangy Local Schools filed a complaint against the valuation of each of these thirteen tax parcels in accordance with the provisions of R.C. 5715.19. It asserts its complaints are sufficient to confer jurisdiction based upon the fact that the new permanent index numbers do appear on the 1999 tax duplicate. We recently expressed our agreement in *Big Walnut City Schools Bd. of Edn. v. Delaware Cty. Bd. of Revision* (Sep. 7, 2001), B.T.A. No. 00-R-1702, unreported, and found jurisdiction properly vested in such circumstances. We now consider this matter based upon the record before us consisting of the statutory transcript filed by the Delaware County Auditor in accordance with the provisions of R.C. 5717.01, the notice of appeal and the record of our merit hearing. Both the property owner and the county elected not to appear at our merit hearing. The property owner did not appear at the board of revision hearing either.

Section 2, Article XII of the Ohio Constitution provides:

“Land and improvements thereon shall be taxed by uniform rule according to value \* \* \* .”

R.C. 5713.03 further provides:

“The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon \* \* \* .”

The best evidence of true value is an actual, recent sale of the property in an arm's-length transaction negotiated in the open market between a willing seller and a willing buyer. *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, *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, *Bd. of Edn. of the Princeton City School District v. Butler Cty. Bd. of Revision* (Dec. 20, 1991), B.T.A. No. 90-J-829, unreported, *Bd. of Edn. of the Princeton School District v. Butler Cty. Bd. of Revision* (May 8, 1992), B.T.A. No. 90-C-820, unreported.

Moreover, a party who asserts a right to an increase or a decrease in the value of real property has the burden to prove the value he or she asserts. *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 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. It is incumbent upon a party challenging the decision of a board of revision to come forward and offer evidence that demonstrates his or her right to the value he or she seeks. *Cleveland Bd. of Edn., supra*, *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493. Once competent and probative evidence of value is presented other parties asserting a different value then have a corresponding burden to rebut that evidence. *Springfield Local Bd. of Edn., supra*, *Mentor Exempted Village Bd. of Edn., supra*.

In the matter *sub judice* the Board of Education of the Olentangy Local Schools has presented copies of a conveyance fee statement and warranty deed evidencing the true value of these tax parcels. The board of revision rejected this evidence stating that lot splits are “akin to a zoning change or other intervening event that makes the subsequent sale not applicable this year.”<sup>1</sup> We disagree. No one has demonstrated that these tax parcels were not the subject of a recent arm’s-length sale. As such, they constitute the best evidence of true value. There is nothing in the record before us to establish a disqualifying relationship between buyer and seller, nor are other circumstances present that would lead us to find that these transactions were not arm’s-length in nature. Under such circumstances the sale evidence is controlling.

Accordingly, we find the true and taxable values of each respective lot to be as follows as of the January 1, 1999 tax lien date:

PARCEL NUMBER 317-230-13-003-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 37,400	\$ 13,050
Building	\$ -0-	\$ -0-
Total	\$ 37,400	\$ 30,950

PARCEL NUMBER 317-230-13-005-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 39,200	\$ 13,700
Building	\$ -0-	\$ -0-
Total	\$ 39,200	\$ 13,700

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<sup>1</sup> St - Ex. 3, pages 4, 5.

PARCEL NUMBER 317-230-13-007-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 99,800	\$ 34,920
Building	<u>\$ -0-</u>	<u>\$ -0-</u>
Total	\$ 99,800	\$ 34,920

PARCEL NUMBER 317-230-13-008-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 106,800	\$ 37,370
Building	<u>\$ -0-</u>	<u>\$ -0-</u>
Total	\$ 106,800	\$ 37,370

PARCEL NUMBER 317-230-13-009-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 65,900	\$ 23,080
Building	<u>\$ -0-</u>	<u>\$ -0-</u>
Total	\$ 65,900	\$ 23,080

PARCEL NUMBER 317-230-13-012-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 43,100	\$ 15,100
Building	<u>\$ -0-</u>	<u>\$ -0-</u>
Total	\$ 43,100	\$ 15,100

PARCEL NUMBER 317-230-13-015-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 74,600	\$ 26,120
Building	<u>\$ -0-</u>	<u>\$ -0-</u>
Total	\$ 74,600	\$ 26,120

PARCEL NUMBER 317-230-13-017-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 79,300	\$ 27,750
Building	\$ -0-	\$ -0-
Total	\$ 79,300	\$ 27,750

PARCEL NUMBER 317-230-13-019-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 42,600	\$ 14,920
Building	\$ -0-	\$ -0-
Total	\$ 42,600	\$ 14,920

PARCEL NUMBER 317-230-13-022-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 39,100	\$ 13,700
Building	\$ -0-	\$ -0-
Total	\$ 39,100	\$ 13,700

PARCEL NUMBER 317-230-13-023-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 41,500	\$ 14,520
Building	\$ -0-	\$ -0-
Total	\$ 41,500	\$ 14,520

PARCEL NUMBER 317-230-11-006-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 39,600	\$ 13,870
Building	\$ -0-	\$ -0-
Total	\$ 39,600	\$ 13,870

PARCEL NUMBER 317-230-11-007-000:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 32,100	\$ 11,250
Building	<u>\$ -0-</u>	<u>\$ -0-</u>
Total	\$ 32,100	\$ 11,250

The Delaware County Auditor is directed to reflect these values upon his records and to cause them to be carried forward in accordance with applicable law.

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