

OHIO BOARD OF TAX APPEALS

Board of Education of the Westerville)
City Schools,)
)
Appellant,) CASE NO. 00-P-1711
)
vs.) (REAL PROPERTY TAX)
)
Delaware County Auditor,) DECISION AND ORDER
Delaware County Board of Revision)
and James H. Blackburn,)
)
Appellees.)

APPEARANCES:

For the Appellant School District - Jeffrey A. Rich
Mark H. Gillis
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

No Appearance:
For the Property Owner - James H. Blackburn, *pro se*
5378 Club Drive
Westerville, Ohio 43082

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Fifth Third Bank
1404 East Ninth Street, 2nd Floor – F11
Cleveland, Ohio 44114

Entered: February 15, 2002

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 Westerville City Schools seeks review of the valuation placed upon a recently split tax parcel for the

1999 tax year. Upon careful review of the record before us, we find value in accordance with the sale evidence offered by the Board of Education of the Westerville City Schools.

The permanent index number in question did not exist on the tax lien date. Rather it was created after the tax lien date as a “lot split.” The Board of Education of the Westerville City Schools filed a complaint against the valuation of this tax parcel in accordance with the provisions of R.C. 5715.19. It asserts its complaint is sufficient to confer jurisdiction based upon the fact that the new permanent index number appears on the 1999 tax duplicate. 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, we expressed our agreement and found jurisdiction had properly vested. 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.

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 sought. *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 Westerville City Schools presented a copy of a conveyance fee statement and warranty deed evidencing the true value of this tax parcel. The board of revision rejected this evidence stating that a lot split is “akin to a zoning change or other intervening event that makes the subsequent sale not applicable this year.”¹ We disagree. No one has demonstrated that this tax parcel was not the subject of a recent arm’s-length sale. As such, it constitutes 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 this transaction was not arm’s-length in nature. Under such circumstances this sale evidence is controlling.

Accordingly, we find the true and taxable value of the subject real property to be as follows as of the January 1, 1999 tax lien date:

PARCEL NUMBER 317-422-02-001-512:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 295,000	\$ 103,250
Building	\$ -0-	\$ -0-
Total	\$ 295,000	\$ 103,250

¹ St - Ex. 3, page 4.

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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