

OHIO BOARD OF TAX APPEALS

Board of Education of the)	
Heath City Schools)	
)	CASE NO. 00-S-1428
Appellant,)	
)	
vs.)	
)	(REAL PROPERTY TAX)
Licking County Board of Revision,)	
Licking County Auditor and)	
William E. & Deborah M. Mills,)	
)	DECISION AND ORDER
Appellees.)	

APPEARANCES:

For the Appellant-	Mark H. Gillis Rich, Crites & Wesp 20 East Broad Street Columbus, Ohio 43215
For the County Appellees-	Robert L. Becker Licking County Prosecuting Attorney By: Dennis E. Dove Assistant Prosecuting Attorney 20 South Second Street Newark, Ohio 43055
For the Appellee- Property Owner	No Appearance William & Deborah Mills, <i>Pro se</i> 863 Shelbourne Place Newark, Ohio 43055

ENTERED: November 30, 2001

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

This appeal is considered by the Board of Tax Appeals pursuant to a notice

of appeal filed herein by the Board of Education of the Heath City Schools (“BOE”). The appeal is taken from a final decision of the Licking County Board of Revision which determined the value of the subject real property for tax year 1999.

The property which is the subject of this appeal is located in the Heath city school district, Licking County, Ohio, and is identified on the auditor's records as parcel number 30-089052-00.000.

The Licking County Auditor and the Licking County Board of Revision (“BOR”) found the true and taxable values of the subject property for tax year 1999 to be as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 61,800	\$ 21,630
Building	\$193,900	\$ 67,870
Total	\$255,700	\$ 89,500

The BOE contends that the BOR has substantially undervalued the subject property. Appellant contends that the true and taxable value of the subject property as of January 1, 1999 should be increased to reflect the April 12, 1999 sale price of \$293,000. Specifically, the BOE contends that the true value of the subject property should be:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 70,800	\$ 24,780
Building	\$222,200	\$ 77,770
Total	\$293,000	\$102,550

On June 19, 2001, an evidentiary hearing was held in this matter. At this hearing, the BOE and BOR were represented by counsel. No appearance was made by or on behalf of the appellee property owner. Therefore, this matter is considered by the Board of Tax Appeals upon the BOE's notice of appeal, the statutory transcript certified by the

Auditor pursuant to R.C. 5717.01, the record of the evidentiary hearing and the brief filed on behalf of the BOE.

We begin our review 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), 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* (1998), 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*.

Applying this rationale to the instant matter, it is clear that the burden of persuasion is on the BOE; that is, the BOE has the burden of providing competent and probative evidence which demonstrates its right to the value sought. In order to meet this burden, the BOE refers to a copy of a quitclaim deed and conveyance fee statement located in the statutory transcript which indicates that William E. and Deborah Mills purchased a one-half interest in the property for \$146,500 in April of 1999 from William and Lillian E. Mills.¹ The BOE asserts that the BOR improperly rejected the price paid for this partial interest as the best evidence of the subject property's value for the tax year 1999. It is the position of the BOE that by doubling this sale price, the value of the subject in its entirety may be ascertained.

Case law supports the contention that an arm's-length sale of an entire fee simple interest in real property represents the best evidence of the true value of the

¹ At the hearing before this Board, counsel for the appellees indicated that the BOR had ascertained that a familial relationship existed between the buyer and seller. There is no evidence in the record to confirm the existence of such

property. In interpreting the meaning of “true value” as set forth above, the Supreme Court has traditionally held that the best evidence of a property’s fair market value or “true value in money” for tax purposes is that amount for which the property would sell on the open market between willing parties. *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. In the later case of *Conalco v. Bd. of Revision* (1977), 50 Ohio St.2d 129, the court further expounded upon its view of the use of a sale to establish the fair market value of real property. In paragraph one of the syllabus, the court stated: “[t]he best evidence of the ‘true value in money’ of real property is an actual, recent sale of the property in an arm’s-length transaction.”

Further, once evidence is submitted that an arm’s-length sale of an entire fee simple interest in real property has occurred, a rebuttable presumption arises that the sale price reflects the true value of the subject property. *Cincinnati Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1997), 78 Ohio St.3d 325. However, the BOE has not cited, nor is this Board aware of any case law extending this presumption to the sale of a fractional interest in property. While the sale of a fractional interest in property, coupled with other competent, probative evidence, may be reflective of the true value of the entire fee simple estate, there is no presumption that the sale of the partial interest itself is indicative of the value of the entire estate. *Juan E. Chahda/The Alpha Company v. Cuyahoga Cty. Bd. of Revision* (June 15, 2001), B.T.A. No. 99-S-1905, unreported.

In *Bd. of Revision v. One Euclid Co.* (1968), 16 Ohio St.2d 43, the Court found that the sale price of a fractional leasehold interest, when considered with other evidence, may be probative of value, stating:

“Appellants argue that we should proscribe the use of testimony concerning the sale price of a fractional leasehold interest as bearing upon the value of the entire leasehold interest. Such evidence is competent, and, *when considered with and tested by all other credible evidence of value*, may be most persuasive.”

a relationship. However, the real property conveyance fee statement indicates that the April 1999 sale is not a “valid sale.”

Further, in *Great Lakes Industrial Park, Inc. v. Lake Cty. Bd. of Revision* (May 15, 1986), B.T.A. Nos. 83-C-1035, *et. seq.*, unreported, this Board held that the sale of an undivided one-half interest in real property, along with other relevant credible evidence, was indicative of the true value of the property transferred. Compare, *River Street Partners v. Cuyahoga Cty. Bd. of Revision* (Nov. 14, 1994), B.T.A. No. 93-P-1411, unreported (sale of less than 100% interest in a partnership did not constitute a sale of the underlying real property and was not indicative of the value of the real property owned by the partnership.)

Based upon the foregoing, the price paid by William E. and Deborah Mills to obtain a one-half interest in the property, when considered with other evidence, might have been probative of the value of the subject property as a whole. However, other than the evidence relating to the sale, the BOE chose not to submit any competent or probative evidence of the value of the entire interest in the property.

Accordingly, we find the transfer of a partial interest in property, without additional evidence of value, to be insufficient to establish the value of the property as a whole. The BOR found value based upon the auditor's valuation as determined by the property record card. Nothing in the record supports a finding that the auditor's valuation was erroneous. Where this Board rejects the evidence before it as not being competent and probative or credible, and there is no other evidence from which we can independently determine value, we may approve the board of revision's valuation, without the BOR presenting any evidence. *Corporate Exchange Bldgs. IV & V, L.P. v. Franklin Cty. Bd. of Rev.* (1998), 82 Ohio St.3d 297; *Simmons v. Cuyahoga Cty. Bd. of Rev.* (1998), 81 Ohio St.3d 47. Accordingly, based upon the foregoing, the Board finds from the preponderance of the evidence that the value of the subject property is as follows for the tax year 1999:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 61,800	\$ 21,630
Building	\$193,900	\$ 67,870
Total	\$255,700	\$ 89,500

It is hereby ordered that the Auditor of Licking County shall cause his records to reflect the values herein determined and to assess the same in accordance therewith as provided by law.

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