

# OHIO BOARD OF TAX APPEALS

Carter Jones Lumber Company,	)	
	)	CASE NO. 00-S-944
Appellant,	)	
	)	
vs.	)	
	)	(REAL PROPERTY TAX)
	)	
Delaware County Board of Revision,	)	
Delaware County Auditor, and the	)	
Board of Education of the Big Walnut	)	
City Schools,	)	DECISION AND ORDER
	)	
Appellees.	)	

## APPEARANCES:

For the Appellant-	Susan K. French-Scaggs Todd W. Sleggs & Associates 1015 Euclid Avenue Third Floor Cleveland, Ohio 44114
For the County Appellees-	W. Duncan Whitney Delaware County Prosecuting Attorney By: Dane A. Gashen Assistant Prosecuting Attorney 15 West Winter Street Delaware, Ohio 43015
For the Appellee Board of Education-	Mark H. Gillis Rich, Crites & Wesp 20 East Broad Street, 3 <sup>rd</sup> Floor Columbus, Ohio 43215

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 on behalf of the Carter Jones Lumber Company. The appeal is taken

from a final decision of the Delaware County Board of Revision (“BOR”), which determined the value of the subject real property for tax year 1999.

The subject property consists of two parcels totaling approximately 48.65 acres and is improved with fifteen buildings consisting of offices, showrooms and warehouses. The buildings total approximately 179,800 square feet. The property is located in the Trenton Township, Big Walnut Local Schools taxing district in Delaware County and appears on the auditor’s records as parcel numbers 416-130-02-003-000 and 416-130-02-002-000.

The Delaware County Auditor and Delaware County Board of Revision determined the total value of the subject parcel for tax year 1999 to be as follows:

Parcel Number 416-130-02-003-000:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 330,900	\$115,820
Building	\$1,843,600	\$645,260
Total	\$2,174,500	\$761,080

Parcel Number 416-130-02-002-00:

	TRUE VALUE	TAXABLE VALUE
Land	\$164,100	\$ 57,440
Building	\$473,500	\$165,730
Total	\$637,600	\$223,170

Appellant contends the Delaware County Auditor and BOR have substantially overvalued the subject property. In its notice of appeal, appellant contends that the total true value of the subject parcels should be \$1,155,610.

On May 16, 2001, an evidentiary hearing was conducted in this matter. Appellant and the Big Walnut City School District Board of Education (BOE) both appeared at this hearing through counsel. However, no appearance was made by or on behalf of the county appellees. Accordingly, this matter is now considered by this Board

based upon the notice of appeal, the statutory transcript certified by the Auditor, the evidence presented at the evidentiary hearing and the briefs filed on behalf of the parties.

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), 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. 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 competent and probative evidence of true value has been presented by an appellant, other parties asserting a different value then have a corresponding burden of providing evidence which tends 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. In order to make an assessment of property at its true value, the county auditor must first determine its true value. Specifically, R.C. 5713.03 provides, in part:

"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 Supreme Court has consistently 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. See, also, *State, ex rel. Park Investment Co., v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410, 412.

In the absence of data from a recent sale, as in the instant matter, true value in money can be calculated by applying any of the three alternative methods provided in O.A.C. Section 5703-3-03(D): (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 adds them to the land value.

In support of its position that the Delaware County Auditor and BOR have overvalued the property, appellant offered the testimony and appraisal report of Robin M. Lorms, MAI, a certified general real estate appraiser in Ohio. He determined the value of the subject property as of January 1, 1999 to be \$2,150,000.

In arriving at this value, the appraiser first determined a value for the subject land, comparing the subject to two land sales, occurring in January 1996 and February 1997. After making adjustments to these sales, he arrived at a value of \$7,500 per acre for a total land value of \$360,000.

The appraiser next estimated the replacement cost of the subject improvements using the Marshall Valuation Service cost manual. He derived adjusted base costs of \$3,449,376. To this figure, he added \$134,208 for improvements other than buildings and a 15% increase to account for indirect costs such as financing and other incidental costs. He then deducted both functional and physical depreciation. Adding the land value of \$360,000, the appraiser opined a total true value of \$2,010,000 by the cost approach, which he rounded to \$2,000,000

Next, the appraiser performed a sales comparison approach, in which he analyzed three “comparable” sales in Franklin County. These sales dated from February 1997 through December 1998. After adjusting the sales prices for time, location, size, condition and age he estimated a correlated per square foot price of \$11.00. Multiplying this figure by the subject’s 179,800 square feet, he opined a value of \$2,000,000. To this figure, he added an excess acreage value of \$140,000 to arrive at a value of \$2,140,000, which he rounded to \$2,150,000.

In conclusion, Mr. Lorms arrived at a reconciled value of \$2,150,000 for the subject as of January 1, 1999.

In reviewing the evidence before us, we first note that, where parties rely upon appraisers' opinions of value, this Board may accept all, part, or none of those appraisers' opinions. *Witt Co. v. Hamilton Cty. Bd. of Revision* (1991), 61 Ohio St.3d 155; *Fawn Lake Apts. v. Cuyahoga Cty. Bd. of Revision* (1999), 85 Ohio St.3d 609. Further, we have often acknowledged in cases where competing appraisals are offered, that the appraisal of real property is not an exact science but is instead an opinion, the reliability of which depends upon the basic competence, skill and ability demonstrated by the appraiser. *Cyclops Corp. v. Richland Cty. Bd. of Revision* (May 30, 1985), B.T.A. Case. No. 82-A-566, et seq., unreported.

In the present case, we find the opinion of value expressed by appellant's appraiser not persuasive for a variety of reasons. First, the appraiser considered two sales of vacant land in making his land value determination. These sales occurred in 1996 and 1997. However, Mr. Lorms did not make any adjustment to these sale prices to account for the difference in time between the sale dates and tax lien date.

Further, we find his land value to be unsupported by independent evidence. The comparable properties utilized by Mr. Lorms sold for \$14,454 and \$10,043 per acre. He determined the subject property was within a range of \$5,000 to \$10,000 per acre. He concluded to a midrange value of \$7,500 per acre for the subject based on these sales and local discussions. However, there is nothing in his appraisal report or his testimony that specifically describes the amount of or reason for the adjustments he made to the comparable sales to arrive at the subject's land value. The value he ultimately opined is significantly less than the range indicated by the comparable sales. Since there is no apparent justification for this disparity, we cannot accept his land value.

In addition, we find the value opined in his sales comparison approach to be unpersuasive. None of the three comparable sales selected adequately compares to the subject property. All three properties are located in Franklin, not Delaware County. Two

of the three comparables were constructed in the 1920s and 1930s and, therefore, are significantly older than the subject, which was constructed primarily in the 1970s. In addition, all three of the comparable properties are less than one-third to one-quarter the size of the subject. Mr. Lorms made adjustments to account for these differences. However, as a result, he made a net adjustment of 55% to Comparable 1, 125% to Comparable 2 and 105% to Comparable 3. Given the excessive amount of these net adjustments, it is questionable whether the properties utilized by Mr. Lorms were truly “comparable” to the subject property.

The Supreme Court has repeatedly held that the determination of fair market value is a question of fact which is primarily within the province of this Board to make. *Hotel Statler v. Cuyahoga Cty. Bd. of Revision* (1997), 79 Ohio St.3d 299; *Fawn Lake Apts. v. Cuyahoga Cty. Bd. of Revision* (1996), 75 Ohio St.3d 601. The Board must consider all the evidence presented in determining the subject property’s value. To make this judgment, the Board is vested with wide discretion in determining the weight to be given to the evidence and the competence and credibility of the witnesses. *Witt Co. v. Hamilton Cty. Bd. of Revision* (1991), 61 Ohio St.3d 155; *Wynwood Apartments Inc. v. Bd. of Revision* (1979), 59 Ohio St.2d 34; *Cardinal Federal S. & L. Assn. v. Bd. of Revision* (1975) 44 Ohio St2d. 13. In order for this Board to rely upon an appraisal report, we must be convinced that the appraiser has accurately estimated the potential of the subject and its market. In the instant case, we are not so convinced.

Based upon the foregoing, we find the appellant has failed to present sufficient, probative evidence that the subject’s value is different than that determined by the Delaware County Auditor and BOR. Having made such determination, and there being no other evidence of value offered, we will rely upon the BOR’s valuation of the subject property. As the Supreme Court stated in *Simmons v. Cuyahoga Cty. Bd. of Revision* (1988), 81 Ohio St.3d 47:

“Where the BTA rejects the evidence presented to it as not being competent and probative, or not credible, and there is no other evidence from which the BTA can independently

determine value, it may approve the board of revision's valuation, without the board of revision presenting any evidence." *Id.* at 49

Accordingly, based upon a preponderance of the evidence, the Board finds that the value of the subject property as of January 1, 1999 is as follows:

Parcel Number 416-130-02-003-000:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 330,900	\$115,820
Building	\$1,843,600	\$645,260
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Parcel Number 416-130-02-002-00:

	TRUE VALUE	TAXABLE VALUE
Land	\$164,100	\$ 57,440
Building	\$473,500	\$165,730
Total	\$637,600	\$223,170

It is the order of the Board of Tax Appeals that the Auditor of Delaware County list and assess the subject real property in conformity with this decision and order. It is further ordered that this value be carried forward in accordance with the law.

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