

**OHIO BOARD OF TAX APPEALS**

Hilliard City Schools )  
Board of Education, )  
 ) Case No. 01-J-13  
Appellant, )  
 ) (REAL PROPERTY TAX)  
vs. )  
 ) DECISION AND ORDER  
Franklin County Auditor, and )  
Franklin County Board of Revision, )  
 )  
Appellees, )  
 )  
and )  
 )  
Meridian Industrial Trust, Inc., )  
 )  
Appellee. )

**APPEARANCES:**

For the Appellant - Rich, Crites, & Wesp  
Jeffrey A. Rich  
20 East Broad Street  
Columbus, Ohio 43215

For the County Appellees - Ron O'Brien  
Franklin County Prosecuting Attorney  
Paul M. Stickel  
Assistant Prosecuting Attorney  
373 South High Street  
Columbus, Ohio 43215-6318

For the Property Owner - Micro Center  
Attn.: Real Estate Department  
4119 Leap Road  
Hilliard, Ohio 43026

Entered December 14, 2001

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

The Board of Tax Appeals is considering this matter pursuant to a notice of appeal filed herein by the Hilliard City Schools Board of Education. (“School Board”) The School Board has appealed from a decision of the Franklin County Board of Revision (“BOR”) that dismissed a portion of the School Board’s complaint and affirmed the auditor’s valuation pertaining to the remainder of the complaint. The complaint challenged the auditor’s valuation for the subject property. The property is located in the city of Columbus, Hilliard School District, and is identified on the auditor’s records as parcels 560-241826-80 and 560-241826-90.

A portion of the property is subject to abatement.<sup>1</sup> The BOR assigned this portion a separate parcel number, 560-241826-90, and dismissed the portion of complaint that pertained to this parcel. The auditor’s value for that parcel is as follows:

Parcel 560-241826-90			
Land		0	0
Building	\$3,815,400		\$1,335,390
Total	\$3,815,400		\$1,335,390

The auditor’s and the BOR’s determination of value for parcel 560-241826-80 is as follows:

Parcel 560-241826-80			
Land	\$ 662,900		\$ 232,020
Building	\$3,121,700		\$1,092,600
Total	\$3,784,600		\$1,324,620

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<sup>1</sup> The city of Columbus affixed a 90 to the parcel number to differentiate between the abated and non-abated portions. The BOR determined value for the non-abated portion only. The 90 identifies the abated portion.

In the notice of appeal the appellant has alleged that the correct value for the combined parcels is as follows:

Parcel 560-241826			
Land	\$ 697,400		\$ 244,090
Building	\$7,298,100		\$2,554,340
Total	\$7,995,500		\$2,798,430 <sup>2</sup>

On September 18, 2001 counsel for the appellant filed a motion to remand the appeal to the BOR. In response to this Board's request the property owner filed a copy of the Columbus City Council resolution that created the enterprise zone under which the property received the tax abatement, a copy of appellant's application requesting inclusion of the property in the enterprise zone and a copy of the Tax Commissioner's journal entry addressing appellant's application. The matter has been submitted to the Board of Tax Appeals upon the statutory transcript filed by the BOR, the motion to remand and the memoranda in support of the motion. The Board requested a written response to the motion to remand, but no response has been filed. The Board also gave the parties an opportunity to request an evidentiary hearing to which there has been no response.

The city of Columbus entered into an agreement on July 29, 1997 that created an urban jobs and enterprise zone and authorized tax abatements within the area encompassing the subject property. The information regarding the type of tax abatement indicates that the property was granted abatement pursuant to R.C. 5709.62 through R.C. 5709.69. These provisions allow a city to designate

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<sup>2</sup> Although the notice of appeal lists the taxable value as \$2,789,430, this appears to be a typographical error.

an area within its jurisdiction as an enterprise zone by adopting an ordinance describing the boundaries of the zone and finding that the area meets the definition in R.C. 5709.61(A). Areas so designated may be exempted from real property taxation as provided in R.C. 5709.65.

The appellant's motion to remand relies upon this Board's decision in *Board of Education of the Columbus City School District v. Franklin Cty. Bd. of Revision, et al.* (August 10, 2001), B.T.A. No. 00-E-792, unreported. In that case this Board addressed the authority of a BOR to hear complaints and determine the value of property subject to an abatement . We stated therein:

“In conclusion, the Board finds that the Board of Revision is authorized to hear complaints against the total valuation of any parcel including the portion subject to abatement. \* \* \* Pursuant to the terms of the exemption granted by the City of Columbus, 60% of the true value of the improvement is exempt from real property taxation for tax year 1999.”

As in *Board of Education of the Columbus City School District, supra*, the BOR in the within matter is authorized to hear complaints against the total valuation of any parcel including the portion subject to abatement. However, the BOR determined value for the non-abated portion of the property only, and dismissed the complaint as it pertained to the abated portion. The BOR erred in failing to determine the value of the entire property. Thus, we find that the BOR, and on appeal this Board, has jurisdiction to consider a complaint against the total valuation of the subject property, including the abated portion. The appellant's

motion to remand the appeal for a determination of value for the abated portion is denied.

Having found jurisdiction to consider the valuation of both the abated and non-abated portions of the property, we now proceed to review the record to determine the value. The BOE, by seeking an increase in the valuation of the property, has the burden to prove 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. The party challenging the decision of a board of revision must come forward with evidence that demonstrates a right to the value asserted. *Cleveland Bd. of Edn., supra*; *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493. In support of its contention of value, the BOE presented the conveyance fee statement that showed that the property sold October 30, 1998 for \$7,995,500 in an arm's-length transaction.

R.C. 5713.03 provides:

“In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor shall consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. \* \* \* ”

The Supreme Court has held that the best evidence of true value in money for real estate taxation purposes is a recent sale in an arm's-length transaction between a willing buyer and a willing seller. *Zazworsky v. Licking Cty. Bd. of Revision* (1991), 61 Ohio St.3d 604; *Conalco v. Bd. of Revision* (1977), 50 Ohio St.3d 129; *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. It is well established that when a sale occurs, there is a rebuttable presumption that the sale price reflects the true value of the property in question. *Cincinnati Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1997), 78 Ohio St.3d 325; *Lakeside Ave. L.P. v. Cuyahoga Cty. Bd. of Revision* (1996), 75 Ohio St.3d 540; *Walters v. Knox Cty. Bd. of Revision* (1989), 47 Ohio St.3d 23; *Ratner v. Stark Cty. Bd. of Revision* (1986), 23 Ohio St.3d 59. Such a presumption recognizes that the sale has met all the requirements that characterize true value. *Cincinnati Bd. of Edn., supra*.

The BOE has established the sale. Therefore, the burden is on the other parties to submit evidence rebutting the presumption. The other parties to the appeal have not provided any affirmative evidence rebutting the presumption that the sale price represents the value of the subject property.

Therefore, the Board finds that the BOR is authorized to hear complaints against the total valuation of any parcel including the portion subject to abatement. Further, the Board finds that the best indicator of the subject property's value is the arm's-length sale on October 30, 1998 for \$7,995,500. Pursuant to the terms of the exemption granted by the City of Columbus, 55% of the true value of the improvements is exempt from real property taxation for tax

year 1999. Thus, the true value of the improvement subject to the abatement can be determined by deducting the auditor's land value from the sale price and multiplying the result by 55%. Therefore, based upon a preponderance of the evidence, the Board of Tax Appeals finds that the value of the subject property for tax year 1999 is as follows:

Parcel 560-241826 -80

	TRUE VALUE	TAXABLE VALUE
Land	\$ 662,900	\$ 232,020
Building	\$3,299,670	\$1,154,880
Total	\$3,962,570	\$1,386,900

Parcel 560-241826 -90

	TRUE VALUE	TAXABLE VALUE
Land	0	0
Building	\$4,032,930	\$1,411,530
Total	\$4,032,930	\$1,411,530

The auditor of Franklin County is hereby ordered to cause his records to reflect the value determined for the subject real property and to assess the same in accordance therewith as provided by law.

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