

OHIO BOARD OF TAX APPEALS

Columbus City Schools)
Board of Education,)
) Case Nos. 01-J-308
Appellant,) 01-J-309
)
vs.) (REAL PROPERTY TAX)
)
Franklin County Auditor and) DECISION AND ORDER
Franklin County Board of Revision,)
)
Appellees,)
)
and)
)
Apollo Realty Finance Ohio, LLC,)
)
Appellee.)

APPEARANCES:

For the Appellant - Rich, Crites & Wesp
Mark H. Gillis
Jeffrey A. Rich
20 East Broad Street
Columbus, Ohio 43215-3682

For the County Appellees - Ron O'Brien
Franklin County Prosecuting Attorney
Paul A. Stickel
Assistant Prosecuting Attorney
373 South High Street
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Columbus, Ohio 43215-6310

For the Property Owner - Wayne E. Petkovic
Attorney at Law
840 Brittany Drive
Delaware, Ohio 43015

Entered December 14, 2001

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

The Board of Tax Appeals is considering this matter pursuant to notices of appeal filed by the Columbus City Schools Board of Education. (“Appellant”) The appeals have been consolidated *sua sponte* for purposes of disposition. Appellant has appealed from decisions of the Franklin County Board of Revision (“BOR”) that determined the value of the subject real property for tax year 1999 for a portion of the subject property, and dismissed the complaint challenging the auditor’s value for the remainder of the property. The property is located in the city of Columbus and is identified on the auditor’s records as parcels 010-241658-80, 010-241658-90, 010-239285-80, and 010-239285-90.

A portion of the property is subject to abatement.¹ The BOR assigned this portion a separate parcel number and did not determine value for this portion. The value determined by the Franklin County Auditor and the Franklin County Board of Revision for the portion of the property that is not subject to the abatement is as follows:

Parcel 010-241658-80		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 582,100	\$203,740
Building	\$ 713,500	\$249,730
Total	\$1,295,600	\$453,470
Parcel 010-239285-80		
	TRUE VALUE	TAXABLE VALUE
Land	\$ 763,000	\$267,050
Building	\$1,213,700	\$424,800
Total	\$1,976,700	\$691,850

¹ 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 portions only. The 90 identifies the abated portion.

The BOR dismissed appellant’s complaints as they pertained to the portion of the property subject to tax abatement. The value of the portion of the property subject to the abatement as determined by the Franklin County Auditor is as follows:

Parcel 010-241658-90

	TRUE VALUE	TAXABLE VALUE
Land	0	0
Building	\$1,954,400	\$684,040
Total	\$1,954,400	\$684,040

Parcel 010-239285-90

	TRUE VALUE	TAXABLE VALUE
Land	0	0
Building	\$3,373,300	\$1,180,660
Total	\$3,373,300	\$1,180,660

On September 18, 2001 counsel for the appellant filed motions to remand the appeals to the BOR. In response to this Board’s request counsel for the BOR filed a copy of the Columbus City Council Resolution that created the Community Reinvestment Area (“CRA”) under which the property received the tax abatement, a copy of appellant’s applications requesting inclusion of the property in the CRA and a copy of the Tax Commissioner’s Journal Entries addressing appellant’s applications. The matter has been submitted to the Board of Tax Appeals upon the statutory transcript filed by the BOR, the motions to remand and the memoranda in support of the motion. The Board requested a written response to the motions 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 information regarding the type of tax abatement indicates that the property was granted abatement pursuant to R.C. 3735.65 to 3735.70. These CRA provisions allow a city to designate an area within its jurisdiction as a community reinvestment area by adopting an ordinance describing the boundaries of the CRA and finding that the area meets the definition in R.C. 3735.65(B). Areas so designated may be exempted from real property taxation as provided in R.C. 3735.67.

The City of Columbus adopted Columbus City Ordinance No. 61X-96 on May 13, 1996. It amended the existing Airport Drive Community Reinvestment Area to include the area between Airport Drive and Alum Creek and I-670 and west of North Cassady Avenue and authorized tax abatements within the area.²

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 CRA abatements. 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%

² The Airport Drive Community Reinvestment Area was originally established by Resolution 42-X-94 in March 1994. The terms provided for a 75% abatement not exceeding 10 years for new construction in the amended area (parcel 101-6287 and splits).

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 appeals for a determination of value for the abated portions is denied.

Having found jurisdiction to consider the valuation of both the abated and non-abated portions of the property, we shall 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 statements that showed that parcel 010-241658 sold August 10, 1998 for \$3,300,000 in an arm's-length transaction, and parcel 010-239285 sold July 6, 1998 for \$5,750,000 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. *Zaworsky 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 sales. 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 sales on July 6, 1998, and August 10, 1998. Pursuant to the terms of the exemption granted by the City of Columbus, 75% 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 75%.³ 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 010-241658-80

	TRUE VALUE	TAXABLE VALUE
Land	\$ 582,100	\$203,740
Building	\$ 679,470	\$237,810
Total	\$1,261,570	\$441,550

Parcel 010-241658-90

	TRUE VALUE	TAXABLE VALUE
Land	0	0
Building	\$2,038,430	\$713,450
Total	\$2,038,430	\$713,450

³ Parcel 241658 -- $\$3,300,000 - \$582,100 = \$2,717,900 \times 75\% = \$2,038,430$ rounded.
Parcel 239285 -- $\$5,750,000 - \$763,000 = \$4,987,000 \times 75\% = \$3,740,250$.

Parcel 010-239285-80

TRUE VALUE		TAXABLE VALUE	
Land	\$ 763,000		\$267,050
Building	\$1,246,750		\$436,360
Total	\$2,009,750		\$703,410

Parcel 010-239285-90

TRUE VALUE		TAXABLE VALUE	
Land	0		0
Building	\$3,740,250		\$1,309,090
Total	\$3,740,250		\$1,309,090

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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