

# OHIO BOARD OF TAX APPEALS

Rex Overstreet,	)	
	)	
Appellant,	)	CASE NO. 01-V-637
	)	
vs.	)	(REAL PROPERTY TAX)
	)	
Hamilton County Board of Revision and	)	DECISION AND ORDER
Hamilton County Auditor,	)	
	)	
Appellees.	)	
	)	

## APPEARANCES:

For the Appellant - Rex Overstreet, *pro se*  
P.O. Box 14296  
Cincinnati, Ohio 45250

For the County  
Appellees - Michael Allen  
Hamilton County Prosecuting  
Attorney  
By: Thomas J. Scheve  
Assistant Prosecuting Attorney  
230 East Ninth Street, Suite 400  
Cincinnati, Ohio 45202

Entered: February 15, 2002

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

This cause and matter came on to be considered by the Board of Tax Appeals upon a notice of appeal filed herein by the above-named appellant, from a decision of the Hamilton County Board of Revision. In said decision, the board of revision determined the taxable value of the subject property for tax year 1999.

The matter was submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript certified to this Board by the county board of revision, and the

record of the hearing before this Board<sup>1</sup>, at which the county appellees waived their appearance.

Proceeding to the merits herein, we note that the subject real property is located in the 042 – Anderson-Forest Hills taxing district, Hamilton County, Ohio, and appears on the auditor’s records as parcel number 500-0360-0011. The value of the parcel, as determined by the auditor and retained by the board of revision, is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 14,300	\$ 5,010
Bldg	\$ 2,300	\$ 810
Total	\$ 16,600	\$ 5,820

Appellant purchased the subject parcel at a sheriff’s sale in 1998 for \$5,500. In his notice of appeal to this Board and his testimony before us, appellant (hereinafter “Mr. Overstreet”) contends that the auditor and board of revision have overvalued the subject property and that its market value for the tax year in question is \$5,500. Appellant’s position before the BOR was that there is a larger tract of land in the area which is valued by the auditor at an amount that is proportionately lower than the subject. Further, Mr. Overstreet seeks a value that is consistent with his purchase price at sheriff’s sale.

Before this Board, Mr. Overstreet provided testimony and presented a packet of four comparables (Exh. 1), which consists of Multiple Listing Service (“MLS”) sales data sheets and what appears to be data from a real estate agent’s office concerning auditor’s valuations.<sup>2</sup> Mr. Overstreet, by his own admissions, is not familiar with the details of the comparable sales or the auditor’s assessments, other than what he has gleaned from the

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<sup>1</sup> Consolidated for hearing purposes only, this Board considered case nos. 2001-V-635, 638, 639, and 640 within the same hearing as the instant appeal.

<sup>2</sup> The pages of which are dated “10/16/2001,” demonstrating, for purposes of R.C. 5715.19(G), that this information was not in the Appellant’s possession until well after the hearing conducted by the BOR.

documents he presented. (R. p. 13-18) Further, Mr. Overstreet testified that the subject is situated next to a creek that is prone to flooding, and that he is certain the property is situated in a flood plain, which has a detrimental effect on the property's value. (R. p. 35-36)

This Board notes the decisions in *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336, 337, and *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, 495, wherein the Supreme Court held that an appealing party has the burden of coming forward with evidence in support of the value which it has claimed. Once competent and probative evidence of true value has been presented, the opposing parties then have a corresponding burden of providing evidence which rebuts appellant's evidence of value. *Id.*; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St.3d 318, 319.

Further, while we acknowledge that "Ohio law has long recognized that an owner of either real or personal property is, by virtue of such ownership, competent to testify as to the market value of the property," the owner's testimony must also be probative and credible as to market value. *Smith v. Padgett* (1987), 32 Ohio St.3d 344, 347. Herein, appellant is not an appraiser by trade, nor did he indicate that he had any appraisal training. As to his evidence of value, Mr. Overstreet relied solely upon the allegedly comparable sales (Ex. 1), the details of which he had no knowledge. His source for this information was a multiple listing service, and, as such, none of the data contained in the service's report was verified for accuracy, either by the service or Mr. Overstreet. In addition, there is no way to determine if the sales in question were arm's-length. Further, the subject's forced sale at sheriff's auction is not indicative of value pursuant to R.C.

5713.04. Accordingly, appellant has not sufficiently demonstrated to this Board that the value which he seeks has any basis in the market.

As it relates to Mr. Overstreet's testimony concerning the adjacent creek and flooding on the subject property, he has offered no evidence as to what extent the problem lowers the true value of the subject property.

In *Benit v. Delaware Cty. Bd. of Revision* (Mar. 18, 1994), B.T.A. No. 93-B-722, unreported, this Board concluded that taxable values reflected for other properties provide little insight into the value of the property at issue. Specifically, we stated:

“The appellant has attempted to show a lower value than that assessed by the BOR. However, appellant's presentation of evidence fails to carry the burden of proof as to what the property is actually worth. The appellant has submitted a comparative analysis of the tax valuation of certain neighboring land. However, we have often stated that such information is not particularly helpful. ‘Tax valuations are not sales, and a comparative analysis thereof is always subject to the objection that the tax valuations of compared properties are not themselves market value.’ *Henry W. Haydu v. Portage Cty. Bd. of Revision* (June 18, 1993), B.T.A. No. 92-H-576, unreported.”

See also, *WJJK Investments, Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29, 31.

To the extent that Appellant claims other properties in the area are improperly valued, we note that our jurisdiction in this case is limited to determining the appropriate value of the subject property. While other properties may be undervalued or overvalued, we do not have the authority to correct such valuations in this case. *Roth v. Hamilton Cty. Bd. of Revision* (June 29, 1990), B.T.A. No. 89-A-347, unreported.

Thus, based upon the foregoing, we find that appellant has not offered sufficient, probative evidence of the subject's value for the tax year in question. It is this Board's statutory duty to find taxable value herein. R.C. 5717.03. As such, one of our primary

concerns relates to the market value of the subject property. Accordingly, with no other evidence of market value before us that we find to be probative and credible, we will utilize the county board of revision’s valuation of the subject. As the Supreme Court stated in *Simmons v. Cuyahoga Cty. Bd. of Revision* (1998), 81 Ohio St.3d 47, “(W)here the BTA rejects the evidence presented to it as not being competent and probative, or not credible, and there is no evidence from which the BTA can independently determine value, it may approve the board of revision’s valuation \* \* \* .” Thus, we adopt the valuation for the subject property, as established by the board of revision. Specifically, the value of the subject property, as of January 1, 1999, shall be as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 14,300	\$ 5,010
Bldg	\$ 2,300	\$ 810
Total	\$ 16,600	\$ 5,820

It is the Decision and Order of the Board of Tax Appeals that the Hamilton County Auditor shall list and assess the subject property in conformity with this decision.

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