

OHIO BOARD OF TAX APPEALS

Cedargate Apts. of Lancaster Ltd., and) CASE NOS. 2002-J-1796
Cardinal Industrial Development Corp.,) 2002-J-1804
)
Appellants,) (REAL PROPERTY TAX)
)
vs.) DECISION AND ORDER
)
Fairfield County Board of Revision,)
Fairfield County Auditor, and the)
Lancaster City School District)
Board of Education,)
)
Appellees.)

APPEARANCES:

For the Appellants - Todd W. Sleggs & Associates
Todd W. Sleggs
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Cleveland, Ohio 44113

For the County - David L. Landefeld
Appellees Fairfield County Prosecuting Attorney
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Lancaster, Ohio 43130

For the Appellee - Rich, Crites & Wesp
Board of Education Jeffrey A. Rich
Mark Gillis
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Columbus, Ohio 43215-3704

Entered July 11, 2003

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

The Board of Tax Appeals is considering this matter pursuant to notices of appeal filed by Cedargate Apts. of Lancaster Ltd., and Cardinal Industrial Development Corp. (“Appellants”) Appellants have appealed from decisions of the Fairfield County Board of Revision (“BOR”) that determined the value of the subject real property for tax year 2001. The property is located in the city of Lancaster and is identified on the auditor’s records as parcels 053-40116.20 and 053-40116.21.

The value determined by the Fairfield County Auditor and the Fairfield County Board of Revision is as follows:

Parcel 053-40116.20

	TRUE VALUE	TAXABLE VALUE
Land	\$ 178,400	\$ 62,440
Building	\$1,072,850	\$375,500
Total	\$1,251,250	\$437,940

Parcel 053-40116.21

	TRUE VALUE	TAXABLE VALUE
Land	\$ 29,520	\$ 10,330
Building	0	0
Total	\$ 29,520	\$ 10,330

In the notice of appeal the appellants have alleged that the correct value is as follows:

Parcel 053-40116.20

	TRUE VALUE	TAXABLE VALUE
Land	\$ 178,400	\$ 62,440
Building	\$ 732,100	\$256,240
Total	\$ 910,500	\$318,680

Parcel 053-40116.21

	TRUE VALUE	TAXABLE VALUE
Land	\$ 29,500	\$ 10,330
Building	0	0
Total	\$ 29,500	\$ 10,330

The matter has been submitted to the Board of Tax Appeals upon the notices of appeal, and the statutory transcripts certified by the board of revision, and the legal briefs filed by the appellant and the board of education. These appeals have been refiled by the appellants subsequent to the dismissal of *Cedargate Apartments of Lancaster v. Fairfield Cty. Bd. of Revision* (Oct. 30, 2002), BTA 2002-J-971, unreported; and *Cardinal Industries Development Corp. v. Fairfield Cty. Bd. of Revision* (Oct. 30, 2002), BTA 2002-T-969, unreported, upon the authority of *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision*, 96 Ohio St.3d 165, 2002-Ohio-4033. The parties waived an evidentiary hearing before this board and agreed that the appeals be decided based upon the record developed before the BOR.

The property, known as the Cedargate Apartments, is comprised of seven one-story frame apartment buildings containing 47 rental units constructed in 1983. Of the 47 units, nine are efficiency apartments with one bathroom, 34 are one-bedroom units with one bathroom, and four are two-bedroom units with one bathroom. One studio has been converted to a laundry and one has been converted to a maintenance unit.

We begin our analysis by noting that a party who asserts a right to a decrease in the value of real property has the burden of proving his right to the value asserted. *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336. The appellant has the burden of coming forward with evidence that proves the value claimed in his appeal. If the appellant presents competent and probative evidence of value, other parties asserting a different value then have the corresponding burden of providing evidence which rebuts appellant's evidence of value. *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493.

At the BOR hearing the property owner submitted the appraisal report of Ronald P. Davis, an MAI appraiser. He opined that the buildings were in fair condition and evidenced typical physical deterioration due to their age. He noted some functional obsolescence in the design since the units were small with no amenities. He estimated the property's value using the income and market approaches to value.

His income approach estimated the market rents for the nine studio apartments at \$370 per month, producing a total of \$39,960. His estimate of the market rent for the thirty-four one-bedroom units was \$420 per month, producing a total of \$171,360. He estimated that the market rent for two of the two-bedroom units was \$525, or \$12,600 for the year, and \$530 for the other two-bedroom units, or \$12,720 for the year. These estimates produced a potential gross income of

\$236,640. From the potential gross income he deducted five percent for vacancy and credit loss or \$11,832. He next included an estimate for other income of \$10,000. Deducting the vacancy and credit loss from the gross income and adding the other income produced an effective gross income of \$234,808. He then deducted operating expenses at \$2,250 per unit, or \$105,750, and a reserve for replacements of \$11,750, producing a net operating income of \$117,308.

He estimated the capitalization rate to be 11.5 percent. He included a tax additur of 1.16 percent, producing an overall capitalization rate of 12.66 percent. Capitalizing the net operating income of \$117,308 at 12.66 percent produced a rounded value indication of \$927,000 via the income approach.

His market approach examined eight sales that occurred between June 1998 and September 2001. These sales ranged from \$17,500 per unit to \$25,000 per unit, with most of the larger projects ranging from \$18,000 per unit to \$21,500 per unit. He decided that the middle of the range typified the market rate. Therefore he estimated that the market rate for the subject was \$20,000 per unit, or a value of \$940,000 via the market approach. In correlating the two approaches, he relied more heavily on the market approach, concluding that the value of the property as of January 1, 2001 was \$940,000.

All the sales used in his market approach were located outside Fairfield County. Although he conceded that there were numerous apartment sales in Fairfield County, he did not perform a Fairfield County search. He did not

obtain any comparable leases from the Fairfield County area to verify his conclusion that the subject apartments were being leased at the market rate. He did not use any Fairfield County sales in deriving a capitalization rate. He did not personally verify the expenses used in the income approach and did not examine any comparable properties to determine whether his estimates reflected market expenses. Therefore, the board is unable to rely on his conclusion of value.

Based upon the foregoing, we conclude the appellant has failed to sustain its burden of proving that the value of the property is other than that established by both the Fairfield County Auditor and the Fairfield County Board of Revision. The appellant has failed in its affirmative burden to establish, through the presentation of competent and probative evidence, that the value of the subject property is other than that determined by the BOR. See *Simmons v. Cuyahoga Cty. Bd. of Revision* (1998), 81 Ohio St.3d 47.

Therefore the board finds that the value of the subject property as of January 1, 2001 is as follows:

Parcel 053-40116.20

	TRUE VALUE	TAXABLE VALUE
Land	\$ 178,400	\$ 62,440
Building	\$1,072,850	\$375,500
Total	\$1,251,250	\$437,940

Parcel 053-40116.21

	TRUE VALUE	TAXABLE VALUE
Land	\$ 29,520	\$ 10,330
Building	0	0
Total	\$ 29,520	\$ 10,330

The Auditor of Fairfield County is ordered to cause his records to reflect the value determined for the subject real property and to assess the same in accordance with law.

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