

OHIO BOARD OF TAX APPEALS

James P. Delphia,) CASE NO. 2003-J-1786
)
Appellant,) (REAL PROPERTY TAX)
)
vs.) DECISION AND ORDER
)
Franklin County Board of Revision,)
Franklin County Auditor, and the)
Columbus School District)
Board of Education,)
)
Appellees.)

APPEARANCES:

For the Appellant - James P. Delphia, pro se
P.O. Box 8143
Columbus, Ohio 43201

For the County - Ron O'Brien
Appellees Franklin County Prosecuting Attorney
Richard F. Hoffman
Assistant Prosecuting Attorney
373 South High Street
Columbus, Ohio 43215

For the Appellee - Rich, Crites & Dittmer, LLC
Board of Education Jeffrey A. Rich
300 East Broad Street – Suite 300
Columbus, Ohio 43215-3756

Entered October 1, 2004

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

The Board of Tax Appeals is considering this matter pursuant to a notice of appeal filed by James P. Delphia (“appellant”). Appellant has appealed from a decision of the Franklin County Board of Revision (“BOR”) that determined the value of the subject real property for tax year 2002. The property

is located in the city of Columbus and is identified on auditor's records as parcel 010-110216.

The value determined by the Franklin County Auditor is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 8,400	\$ 2,940
Building	\$ 35,600	\$12,460
Total	\$ 44,000	\$15,400

The value determined by the BOR is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 8,400	\$ 2,940
Building	\$121,600	\$42,560
Total	\$130,000	\$45,500

In the notice of appeal the appellant has alleged that the true value of the property is \$100,000. The matter has been submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript certified by the BOR, and the evidence adduced at the hearing conducted herein.

The appellant purchased the property on December 4, 2002. He testified that he attempted to negotiate a lower price but ultimately agreed to pay \$130,000.

The Ohio Supreme Court has consistently held that the best evidence of true value of real property is an actual recent arm's-length sale. *Zazworsky v. Licking Cty. Bd. of Revision* (1991), 61 Ohio St.3d 604; *Hilliard City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1990), 53 Ohio St.3d 57; *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. In *Walters v.*

Knox Cty. Bd. of Revision (1989), 47 Ohio St.3d 23, the court provided the following definition of an arm's-length sale:

“In sum, an arm's-length sale is characterized by these elements: it is voluntary, i.e., without compulsion or duress; it generally takes place in an open market; and the parties act in their own self-interest.”

The definition of arm's-length includes the requirement of an open market transaction between unrelated parties. It connotes more than lack of compulsion on the part of the buyer and seller. It means that the willing parties have disinterested interests; i.e., that they stand separate from each other. The reasons for this principle are apparent. Closely related parties transfer property between themselves for various reasons, and the sale price frequently is not freely negotiated, but rather, is based upon factors between the parties not connected with the value of the property being transferred. See *Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision* (Jan. 18, 1990), Franklin App. No. 89AP-448, unreported.

The evidence in the record has established the sale. The Ohio Supreme Court has recognized a rebuttable presumption that the sale price reflects true value of property. Such presumption consequently recognizes a presumption that the sale has met all the requirements which characterize true value. *Cincinnati Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1997), 78 Ohio St.3d 325. It is clear that the parties were unrelated and acting in their own self-interest. Nevertheless, appellant is now seeking a reduction claiming that he overpaid for

the property. However, despite the property owner's assertions, there is nothing within this record to suggest the sale price was not reflective of market conditions. The sale was voluntary. No evidence has been introduced showing that either party to the sale was under any compulsion or duress to buy or sell.

Nevertheless, the appellant has submitted a sale of a property in the area that transferred July 15, 2003 for \$98,500 in support of his reduction claim. However, from the evidence submitted the board is unable to determine whether the property is comparable to the subject. Merely showing that two parcels of property have different values without more does not establish that the tax authorities valued the properties in a different manner. *WJJK Investments Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29.

The board of education has established the sale and has submitted credible evidence of the arm's-length nature of the sale. Therefore, the burden has shifted to the appellant to submit evidence rebutting the presumption that the sale reflects true value. *Cincinnati Bd. of Edn.*, supra. The appellant has failed to submit sufficient probative, competent evidence demonstrating that the sale price does not represent the value of the property. The board accordingly finds that the sale price is a valid indicator of the subject property's value.

Therefore, based upon a preponderance of the evidence, the Board of Tax Appeals finds that the value of the property as of January 1, 2002 is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 8,400	\$ 2,940
Building	\$121,600	\$42,560
Total	\$130,000	\$45,500

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

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