

**OHIO BOARD OF TAX APPEALS**

Country Squire Ltd.,<sup>1</sup> )  
 )  
Appellant, ) (REAL PROPERTY TAX)  
 )  
vs. ) DECISION AND ORDER  
 )  
Wood County Board of Revision and )  
Wood County Auditor, )  
 )  
Appellees. )

APPEARANCES:

For the Appellant - Karen H. Bauernschmidt Co., LPA  
Karen H. Bauernschmidt  
1370 West 6<sup>th</sup> Street, Suite 200  
Cleveland, Ohio 44113

For the County Appellees - Rich, Crites & Dittmer, LLC  
James R. Gorry  
300 East Broad Street, Suite 300  
Columbus, Ohio 43215

Entered May 12, 2009

Ms. Margulies, Mr. Johrendt, and Mr. Dunlap 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 Wood County Board of Revision. In said decision, the board of revision determined the taxable value of the subject real property for tax year 2005.

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<sup>1</sup> Although the appellant is listed as “County” Squire on the line provided for the name of the appellant on the notice of appeal form, the property owner is referred to as “Country” squire in other relevant areas on such form, on the attached decision letter from the BOR, and throughout the statutory transcript, including on the original complaint and the auditor’s property record cards. Therefore, we will treat the reference to County as a typographical error, and, as such, will refer to appellant hereinafter as “Country Squire.”

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, the record of the hearing before this board, and the briefs filed by counsel to the appellant and to the county appellees.

The subject real property, a subsidized apartment complex, is located in the North Baltimore village-North Baltimore school district taxing district, Wood County, Ohio, and appears on the auditor's records as parcel number F23-310-360000015000. In average condition, the subject is situated on approximately 5.08 acres and its nine buildings contain a total of approximately 47,780 finished square feet. Constructed in 1981, the complex consists of 50 units, including 32 2-bedroom townhouses, 16 3-bedroom flats, and 2 4-bedroom townhomes. Ex. 2 at 20, 55. 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	\$ 165,000	\$ 57,750
Bldg	1,198,100	419,340
Total	\$1,363,100	\$ 477 ,090

Appellant contends that the auditor and board of revision have overvalued the subject and that it should be valued based upon the valuation conclusion set forth in the property owner's appraisal.

Initially, 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 that 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.

When determining value, it has long been held by the Supreme Court that "the best evidence of 'true value in money' of real property is an actual, recent sale of the property in an arm's-length transaction." *Conalco v. Bd. of Revision* (1977), 50 Ohio St.2d 129; *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. Absent a recent sale, as in the instant case, true value in money can be calculated by applying any of three alternative methods provided for in Ohio Adm. Code 5703-25-07: 1) the market data approach, which compares recent sales of comparable properties, 2) the income approach, which capitalizes the net income attributable to the property, and 3) the cost approach, which depreciates the improvements to the land and then adds them to the land value.

We note that at the hearing before the BOR, Country Squire offered the testimony of a representative of the property owner as well as a written "owner's opinion of value." At the hearing before this board, the appellant property owner offered the appraisal and testimony of Steven J. Birch, a state-certified general appraiser in Ohio. The county did not offer any evidence or testimony regarding the subject's value, but chose to primarily rely upon its cross-examination of the property

owner's appraiser to attempt to establish that the appraisal of the subject did not constitute competent, probative, and credible evidence of value.

Mr. Birch, in his analysis of the subject, began by determining that "as vacant, the subject's highest and best use would be as multi-family property." Ex. 2 at 76. He went on to conclude that "the subject's highest and best use as improved is its current use – multi-family residential facility." Ex. 2 at 77.

In order to determine the subject's market value, Mr. Birch utilized both the sales comparison and income approaches to value. He did not feel it was appropriate to utilize the cost approach in his valuation determination "[b]ecause an accurate estimation of physical depreciation is necessary for this approach to have validity, \*\*\* [and] due to its age, an estimate of the subject's value using this method would be impractical and imprudent." Ex. 2 at 78.

First, using the sales comparison approach, Mr. Birch compared the subject to five sales of properties dating from April 2004 to May 2005 that he found to be similar to the subject. Ex. 2 at 80. After adjusting the sales for differences from the subject, including expenses per unit, average unit size, and amenities, Mr. Birch determined an adjusted price per unit of \$25,000, with a final value for the subject of \$1,250,000. Ex. 2 at 87.

Mr. Birch also completed an income approach analysis of the subject property. First, he estimated the potential gross income of the subject based upon a survey of eight other comparable rental properties in the area. Utilizing such comparables, Mr. Birch concluded to a value of \$.54 per square foot per month for the

two and three-bedroom units and \$.52 per square foot per month for the four-bedroom units. Ex. 2 at 95. Based upon the foregoing, the total gross potential rental income for the subject was calculated to be \$294,912. Ex. 2 at 95. Other income was estimated at \$50 per unit, based on the subject's actual history. H.R. at 93-94. Further, Mr. Birch indicated that "consideration was given to historical vacancy trends in the subject's market as well as other published survey information," to arrive at a vacancy/credit loss rate of 5%. Ex. 2 at 98. Accordingly, he concluded to an effective gross income ("EGI") of \$283,729. Ex. 2 at 98.

Expenses were determined based upon statistics from the Institute of Real Estate Management ("IREM") and a survey of four apartment complex's expenses within the competing area. Ex. 2 at 96. After considering both sources of information, Mr. Birch utilized the market-derived estimation of expenses and attributed a yearly/per unit expense amount of \$3,200 to the subject. Thus, from the EGI, Mr. Birch deducted expenses totaling \$160,000, as well as reserves for replacement, estimated at \$.50/square foot, or \$23,900, to arrive at a net operating income of \$99,829. Ex. 2 at 98. Mr. Birch calculated his capitalization rate of 10.86% (including a tax additur of 1.86%) using "financing as well as market indicators." Ex. 2 at 98. He concluded to a value using the income approach of \$919,235, less personal property at \$500 per unit, for a final value of \$894,200. Ex. 2 at 99.

Giving the most weight to the conclusions reached via the income capitalization approach, Mr. Birch concluded to an overall value of \$1,000,000 for the subject. Ex. 2 at 100.

Considering Mr. Birch's market approach first, we question several of his conclusions thereunder. First, we note that three out of the five sales comparables have over twice the number of units as the subject and one has less than half. Because the comparable complexes contain significantly different numbers of units from that of the subject, we believe the price per unit calculations are then skewed, especially when the only unit of comparison utilized is "price per unit." Further, no adjustments were made to the comparables for location, even though the subject is located in a small village with approximately 1/10 the population of the location where two of the comparables are located, Bowling Green, near a major state university, and arguably, even less population compared to the location of the remaining comparables, Toledo, a major urban Ohio city. In addition, no adjustments were made to comparables that were built eight to twelve years prior to the subject or were located on sites that were approximately 1/5 the size of the subject, or smaller. Finally, Mr. Birch made an adjustment for expenses "per unit/expense ratio." He indicated that these "take into consideration the fact that the subject is new construction with minimum requirements for building maintenance expenses when compared to the sales properties which are of a slightly older vintage." Ex. 2 at 79. However, we do not find that such adjustment was implemented in the described manner; expenses per unit were adjusted for comparables that were newer than the subject, e.g., built in 1986 and 1988 as well as those that were older, e.g., built in 1969 and 1973. In addition, based upon Mr. Birch's description, we believe that such adjustments should be covered by age and condition adjustments. Finally, even if we felt that such unit of comparison was

appropriate, since the comparables' expense ratios are compared to the subject's, which were strictly "estimated" by the appraiser, we find such conclusions to be unreliable. Accordingly, we will accord no weight to Mr. Birch's market approach because we find the comparables utilized to be initially too different and because the calculations made within his approach are not reliable.

However, with regard to Mr. Birch's income approach, we find that most of the conclusions thereunder are adequately supported and reflective of the subject property, with one exception. With regard to Mr. Birch's estimation of the subject's expenses, he concluded to an amount of \$3,200 per unit. However, upon review of his expense data, we find that only one of the expense comparables exceeded \$2,800 per unit. For example, using IREM, expenses per unit were estimated at \$2,635, \$2,677, and \$2,691, with the appraiser concluding to \$2,890 for the subject. Using four apartment complexes in the subject's market, the expenses per unit were \$4,300, \$2,400, \$2,600, and \$2,800, with the appraiser concluding to \$3,200 per unit. As we consider the foregoing, we find that there is no basis in the record for estimating the subject's expenses higher than \$2,800 per unit, as we consider the one comparable with \$4,300 in expenses to be an aberration when compared with the remaining comparable information. In fact, all of the market comparables have significantly more amenities than the subject, and, as such, their expenses should arguably provide the absolute outside limit for expense calculation. By adjusting Mr. Birch's expense figure to reflect \$2,800 per unit, the pro forma income analysis would be adjusted to reflect the following:

Income	
General Income	\$294,912
Other Income	\$ 3,750
Less Vacancy & Credit Loss	\$ 14,933
Effective Gross Income	\$283,729
Expenses	
Reserves for Replacement	\$ 23,900
General Expenses	\$140,000
Net Operating Income	\$119,829
	\$119,830 (rounded)

Thus, upon review of the property owner's appraisal report, we find that the property owner has offered sufficient, probative evidence of the subject's value, with the aforementioned revision. Accordingly, based upon the preponderance of evidence currently before this board, we have determined the value of the subject property, as of January 1, 2005, shall be based upon the property owner's appraisal, as revised. The value<sup>2</sup> for the subject parcel shall be as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 129,410	\$ 45,290
Bldg	949,000	332,150
Total	\$1,078,410 <sup>3</sup>	\$ 377,440

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

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<sup>2</sup> The valuation has been adjusted in accordance with the ratios that the auditor and BOR utilized (as between land and building).

<sup>3</sup> This value includes the \$25,000 deduction for personal property made by Mr. Birch.