

OHIO BOARD OF TAX APPEALS

DeAsa Brown,)	CASE NO. 2006-H-2098
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Hamilton County Board of Revision)	
and the Hamilton County Auditor,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant	-	Rodney Brown, pro se 418 Valley Road Montclair, New Jersey 07043
For the County Appellees	-	Joseph T. Deters Hamilton County Prosecuting Attorney Thomas J. Scheve Assistant Prosecuting Attorney 230 East Ninth Street Cincinnati, Ohio 45202

Entered January 27, 2009

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

This cause and matter is before the Board of Tax Appeals as a result of a notice of appeal filed by appellant DeAsa Brown (“property owner”). Brown challenges a decision of the Hamilton County Board of Revision (“BOR”) that determined the value of certain real property for tax year 2005. We consider this matter on appellant’s notice of appeal, the statutory transcript (“S.T.”) certified by the

Hamilton County Auditor (“auditor”), and the evidence provided at this board’s hearing (“H.R.”).¹

The subject property is located in the city of Cincinnati taxing district and is identified in the auditor’s records as parcel number 058-0004-0017. The property is improved with a two-story, two-family house built in 1900. At the time of the BOR hearing, the property owner rented one unit for \$600 per month, while the second unit was vacant. S.T., transcription of BOR hearing at 6. The value of the subject property, as originally assigned by the auditor, is \$126,500.

Through a complaint filed with the BOR, the property owner asserted that the subject’s true value should be reduced to \$90,000. At the BOR hearing, Rodney Brown, the owner’s husband, tendered property record card information concerning four properties that sold in 2005 and 2006 for between \$24,500 and \$41,500. S.T. at III, Ex. A. Upon consideration of the information presented, the BOR ultimately decided to make no change to the auditor’s assessment of the subject property. From the BOR’s decision, Brown appealed to this board, asserting in her notice of appeal that the subject’s total true value should be \$90,000.

Rodney Brown again represented his wife at the hearing before this board. Brown testified that he is a licensed real estate agent and invests in property in the same neighborhood as the subject. H.R. at 12-13, 19, 29. Brown said he was able to refinance a \$105,000 mortgage loan using the subject property as security in October 2003. H.R. at 7-8; appellant’s Ex. 1. Brown testified he was not involved

¹ The county appellees waived their appearance at this board’s hearing.

with the sales of the four alleged comparable properties he presented to the BOR. H.R. at 37; S.T. at III, Ex. A. Brown presented two additional properties to this board that he claims are comparable to the subject. Appellant's Exs. 3-5. The Hewitt Avenue property appears to have transferred in September 2004 for \$137,500 and again in February 2008 for \$17,000, while the Hackberry Street property appears to have sold for \$139,000 in June 2003. *Id.* Finally, Brown testified all six properties are located within a quarter mile or less of the subject, but his knowledge of these properties is limited to exterior inspections since he did not physically inspect any of the interiors. H.R. at 28-30, 36-38.

In considering appellant's appeal, we acknowledge at the outset the standard by which our review is to be conducted. As has been pointed out by the Supreme Court, "[w]hile a determination of the true value of real property by a board of revision is entitled to consideration by the BTA, such determination is not presumptively valid." *Amsdell v. Cuyahoga Cty. Bd. of Revision* (1994), 69 Ohio St. 3d 572, 574. See, also, *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, 495; *Cambridge Arms, Ltd. v. Hamilton Cty. Bd. of Revision* (1994), 69 Ohio St. 3d 337, 338. Nevertheless, an appellant challenging a decision of a county board of revision must support his valuation claim:

“When cases are appealed from a board of revision to the BTA, the burden of proof is on the appellant, whether it be a taxpayer or a board of education, to prove its right to an increase [in] or decrease from the value determined by the board of revision. *Cincinnati School Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1997), 78 Ohio St.3d 325,

Footnote contd. _____

328, ***. The appellant before the BTA must present competent and probative evidence to make its case; it is not entitled to a reduction or an increase in valuation merely because no evidence is presented against its claim. *Hibschman v. Bd. of Tax Appeals* (1943), 142 Ohio St. 47, ***.” *Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (2001), 90 Ohio St.3d 564, 566. (Parallel citations omitted.)

See, also, *Bd. of Edn. of the Hamilton Local Schools v. Franklin Cty. Bd. of Revision* (June 10, 1997), Franklin App. Nos. 96APH09-1228, et seq., unreported (“When an issue concerning the true value of real property for taxation purposes is presented to the BTA, the value set by the BOR is not presumptively correct. *** However, in a hearing before the BTA, the taxpayer is obliged to prove his right to a reduction in value.”).

At the hearings before the BOR and this board, Brown presented a total of six property sales located in the same neighborhood as the subject property. The documents from the auditor’s website he submitted listed the number of rooms and the age of the improvements for the alleged comparables. S.T. at III, Ex. A, appellant’s Exs. 3-5. We find these documents to be of little utility in determining the subject property’s value. The purpose of the sales comparison approach, one of three commonly employed methods of appraising property, is to derive an estimate of value by comparing the property under consideration to similar properties recently sold within the marketplace. See *The Appraisal of Real Estate* (13th Ed. 2008) at 297-314,

which emphasizes the need for familiarity with the properties used in any comparative analysis.²

With nothing more than a very limited list of raw sales data, a trier of fact is left to speculate as to how common differences, e.g., location, size, quality of construction of improvements, nature of amenities, date of sale as opposed to tax lien date, etc., may affect a value determination. Further, Brown testified that he did not have first-hand knowledge of these transactions and could not provide specifics of any of the sales he presented, which range in value from a low of \$17,000 to a high of \$139,000.³ Thus, we find no evidence as to the arm's-length nature of the purported comparable sales.

The only other evidence the property owner provided in support of her opinion of the subject's value was a settlement statement indicating a \$105,000 loan in October 2003 secured by the subject. We do not find this to be probative evidence of a \$90,000 value.⁴ Consequently, we find the evidence presented by the property owner before this board and the BOR is not sufficiently reliable or probative to support the decrease sought.

² In *Freshwater v. Belmont Cty. Bd. of Revision* (1991), 58 Ohio St.3d 140, 141, the court indicated that "[a]ppraisal manuals and treatises can help in the valuation of real property."

³ Specifically, the sale prices are \$24,500, \$34,000, \$35,000 and \$41,500 for the properties found in the S.T. at III, Ex. A. As noted, *supra*, appellant's Exs. 3-5 present one property that appears to have transferred in June 2003 for \$139,000 and another property that appears to have transferred in September 2004 for \$137,500 and again in February 2008 for \$17,000. Even if we were to give weight to this evidence, we would find that it does not support appellant's \$90,000 alleged value.

⁴ In fact, if we were to reach any conclusion from this evidence, it would be that the subject should be valued at or above the loan amount. For example, if a lender requires a borrower to possess 17 percent equity in an investment property, then a \$105,000 loan would require a property valued at \$126,500.

Accordingly, we find appellant has failed to satisfy her affirmative burden on appeal, see, e.g., *Simmons v. Cuyahoga Cty. Bd. of Revision* (1998), 81 Ohio St.3d 47, and it is therefore the decision of the Board of Tax Appeals that the true and taxable values of the subject property, as of January 1, 2005, are as follows:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 29,400	\$10,290
Building	\$ 97,100	\$33,990
Total	\$126,500	\$44,280

The Hamilton County Auditor is hereby ordered to list and assess the subject property in conformity with the decision as announced herein.

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Footnote contd. _____