

**OHIO BOARD OF TAX APPEALS**

Timothy W. Mason,	)	CASE NO. 2006-R-1137
	)	through
Appellant,	)	2006-R-1146 <sup>1</sup>
	)	
vs.	)	(REAL PROPERTY TAX)
	)	
Montgomery County Board of Revision	)	DECISION AND ORDER
and Montgomery County Auditor,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant	-	Timothy W. Mason, pro se 3747 O’Neill Road Waynesville, OH 45068
For the County Appellees	-	Mathias H. Heck, Jr. Montgomery County Prosecuting Attorney Laura G. Mariani Assistant Prosecuting Attorney 301 West Third Street Dayton, OH 45422

Entered April 15, 2008

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

This matter is before the Board of Tax Appeals upon multiple notices of appeal filed by Timothy W. Mason. Mr. Mason appeals ten decisions of the Montgomery County Board of Revision (“BOR”), in which the BOR determined the taxable value of various properties for tax year 2005.

The Montgomery County Auditor determined, and the BOR agreed, that the true and taxable values for the subject properties for 2005 should be as follows:

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<sup>1</sup> While these appeals were not previously consolidated by this board, they were scheduled for a single hearing before this board. Upon review of the existing record, we consider these matters sufficiently related that a single decision may be issued resolving all ten appeals collectively. See Ohio Adm. Code 5717-1-08.

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1137 5559 Barnard Avenue P70-14-14-25		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 54,990</u>	<u>\$ 19,250</u>
Total	\$ 76,790	\$ 26,880

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1138 5370 Flotron Avenue P70-15-11-63		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 56,480</u>	<u>\$ 19,770</u>
Total	\$ 78,280	\$ 27,400

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1139 4825 Pacific Court P70-1-2-28		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 77,530</u>	<u>\$ 27,140</u>
Total	\$ 99,330	\$ 34,770

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1140 5171 Harshmanville Road P70-9-14-16		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 62,780</u>	<u>\$ 21,970</u>
Total	\$ 84,580	\$ 29,600

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1141 7772 Berchman Drive P70-18-3-3		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 66,960</u>	<u>\$ 23,440</u>
Total	\$ 88,760	\$ 31,070

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1142 5356 Flotron Avenue P70-15-11-61		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 62,960</u>	<u>\$ 23,440</u>
Total	\$ 84,760	\$ 31,070

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1143 5456 Flotron Avenue P70-15-5-38		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 75,930</u>	<u>\$ 26,580</u>
Total	\$ 97,730	\$ 34,210

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1144 5699 Harshmanville Road P70-1-7-64		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 65,950</u>	<u>\$ 23,080</u>
Total	\$ 87,750	\$ 30,710

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1145 7025 Highbury Road P70-19-13-44		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 72,450</u>	<u>\$ 25,360</u>
Total	\$ 94,250	\$ 32,990

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1146 310 Prince Albert Blvd. I39-7-8-21		
Land	\$ 10,380	\$ 3,630
Building	<u>\$ 46,970</u>	<u>\$ 16,440</u>
Total	\$ 57,350	\$ 20,070

Mr. Mason, however, claims in his notices of appeal that the true and taxable values for the subject properties should be reduced for 2005 as follows:

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1137 5559 Barnard Avenue P70-14-14-25		
Total	\$ 50,000	\$ 17,500

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1138 5370 Flotron Avenue P70-15-11-63		
Total	\$ 62,000	\$ 21,700

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1139 4825 Pacific Court P70-1-2-28		
Total	\$ 62,000	\$ 21,700

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1140 5171 Harshmanville Road P70-9-14-16		
Total	\$ 62,000	\$ 21,700

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1141 7772 Berchman Drive P70-18-3-3		
Total	\$ 62,000	\$ 21,700

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1142 5356 Flotron Avenue P70-15-11-61		
Total	\$ 62,000	\$ 21,700

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1143 5456 Flotron Avenue P70-15-5-38		
Total	\$ 62,000	\$ 21,700

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1144 5699 Harshmanville Road P70-1-7-64		
Total	\$ 65,000	\$ 22,750

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1145 7025 Highbury Road P70-19-13-44		
Total	\$ 62,000	\$ 21,700

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1146 310 Prince Albert Blvd. I39-7-8-21		
Total	\$ 40,000	\$ 14,000

This matter is submitted to the Board of Tax Appeals upon the notices of appeal, the statutory transcripts (“S.T.”) certified to this board by the BOR, and the record of the evidentiary hearing before this board (“H.R.”), including exhibits. At the hearing before the board, Mr. Mason testified on his own behalf. The BOR was represented by

counsel, but called no witnesses and submitted no additional evidence aside from cross-examination.

The properties under consideration in these appeals consist of residences that are used as rental properties. The particulars regarding each property are as follows:

**5559 Barnard Avenue**

This property is permanent parcel number P70-14-14-25 and is located in the Huber Heights taxing district. S.T. It was purchased at a sheriff's sale on March 8, 2006 for \$56,000. H.R. at 10, 26-27; Appellant's Ex. A. It was uninhabitable as of the purchase date. H.R. at 27. Mr. Mason put approximately \$6,000 into the house in repairs. H.R. at 28. It was not rented as of the date of the BOR hearing. S.T., tape. The BOR valued it at \$76,790, and Mr. Mason claims its value is \$50,000. Appellant's Ex. A.

**5370 Flotron Avenue**

This property is permanent parcel number P70-15-11-63 and is also located in the Huber Heights taxing district. S.T. It was purchased at a sheriff's sale on May 3, 2002 for \$57,075. H.R. at 10, 30; Appellant's Ex. A. Mr. Mason made approximately \$6,000 to \$7,000 of repairs to this property. H.R. at 32. The rent on this property is \$650 per month. S.T., tape. The BOR valued it at \$78,280, and Mr. Mason claims its value is \$62,000. Appellant's Ex. A.

**4825 Pacific Court**

This property is permanent parcel number P70-1-2-28 and is located in the Huber Heights taxing district. S.T. It was purchased on November 8, 2004, again at sheriff's sale, for \$71,800. H.R. at 10, 33, 46; Appellant's Ex. A. It was run down and in

disrepair when purchased, but it did have tenants. H.R. at 33. Mr. Mason made repairs in the amount of \$5,000 for materials. H.R. at 33, 46. He provided the labor himself. H.R. at 33. Mr. Mason testified that he did not do much to the house after he first bought it for a couple of months, so it appears to have been unchanged on the tax lien date. H.R. at 48. He rents this house for \$800 per month. S.T., tape. The BOR valued it at \$99,330, and Mr. Mason claims its value is \$62,000. Appellant's Ex. A.

### **5171 Harshmanville Road**

This property is permanent parcel number P70-9-14-16 and is located in the Huber Heights taxing district. S.T. It was purchased at a sheriff's sale on April 4, 2003 for \$62,100. H.R. at 10, 33; Appellant's Ex. A. Mr. Mason spent \$2,000 to \$3,000 in materials for repairs; he performed the repair work himself. S.T., tape; H.R. at 33. The rent for this property is \$675 a month. S.T., tape. The BOR valued the property at \$84,580, and Mr. Mason claims its value is \$62,000. Appellant's Ex. A.

### **7772 Berchman Drive**

This property is permanent parcel number P70-18-3-3. S.T. It is located in the Huber Heights taxing district. Id. Mr. Mason purchased the property at sheriff's sale on May 9, 2005 for \$73,700. H.R. at 10, 35; Appellant's Ex. A. Approximately \$6,000 to \$7,000 in materials was expended for repairs. H.R. at 35. The rent for this property is \$750 a month. S.T., tape. The BOR values the property at \$88,760, and Mr. Mason puts a value on the property of \$62,000. Appellant's Ex. A.

### **5356 Flotron Avenue**

This property is permanent parcel number P70-15-11-61 and is located in the Huber Heights taxing district. S.T. Mr. Mason purchased this property at a sheriff's sale on August 10, 2004 for \$66,100. H.R. at 10, 36; Appellant's Ex. A. Although someone was living there when he bought it, Mr. Mason spent \$6,000 to \$7,000 on materials to make the necessary repairs. H.R. at 36. These repairs took him almost a year to complete. H.R. at 35, 38. Mr. Mason testified that he did not know what the condition of the property was as of the tax lien date, January 1, 2005, but he estimated that the repairs were approximately fifty to sixty percent complete. H.R. at 40-41. The rent obtained on this property is \$750 a month. S.T., tape. The BOR placed a value on the property of \$84,760, and Mr. Mason values the property at \$62,000. Appellant's Ex. A.

### **5456 Flotron Avenue**

This property is permanent parcel number P70-15-5-38 and is located in the Huber Heights taxing district. S.T. Mr. Mason purchased this property at a sheriff's sale on August 23, 2005 for \$78,500. H.R. at 10, 41; Appellant's Ex. A. This property was in substantial disrepair when Mr. Mason purchased it. H.R. at 41. He spent \$10,000 for materials to make repairs to the property. H.R. 42. Mr. Mason rents this property for \$750 a month. S.T., tape. The BOR valued the property at \$97,730, and Mr. Mason places a value on it of \$62,000. Appellant's Ex. A.

### **5699 Harshmanville Road**

The permanent parcel number on this property is P70-1-7-64; it is located in the Huber Heights taxing district. S.T. Mr. Mason purchased this property from a bank through a realtor in 2005. H.R. at 44; Appellant's Exs. A and B. The asking price was \$62,000, but because he was told there were several offers on this property, Mr. Mason paid \$65,001. Id. Mr. Mason rents this property for \$750 a month. S.T., tape. The BOR valued this property at \$87,750, and Mr. Mason places a value of \$65,000 on the property. Appellant's Ex. A.

### **7025 Highbury Road**

This parcel is permanent parcel number P70-19-13-44 and is also located in the Huber Heights taxing district. S.T. It was purchased, again at sheriff's sale, on July 20, 2005 for \$77,600. H.R. at 10, 43; Appellant's Ex. A. Mr. Mason testified that the property was in disrepair when he bought it. H.R. at 43. He put \$6,000 to \$7,000 of material costs into the property to repair it. Id. It was not rented as of the date of the BOR hearing because Mr. Mason was still working to repair the property. S.T., tape. Mr. Mason provided the BOR with a list of comparable houses that had been sold, with an average price of \$94,697. S.T. The BOR valued the property at \$94,250, and Mr. Mason estimates that it has a value of \$62,000. Appellant's Ex. A.

### **310 Prince Albert Blvd.**

This property is permanent parcel number I39-7-8-21. S.T. It is located in the Riverside taxing district. Id. Mr. Mason inherited this property in 1999. H.R. at 46. Mr. Mason has been making repairs to this house since that time. Id. At the BOR, Mr.

Mason testified that this is an older house, built in the 1940s. S.T., tape. It rents for \$550 a month. *Id.* The BOR placed a value of \$57,350 on the property, and Mr. Mason values it at \$40,000. Appellant's Ex. A.

Initially, this board notes that a party who asserts a right to an increase or a decrease in the value of real property has the burden to prove its right to the value asserted. *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1990), 50 Ohio St.3d 55; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St.3d 318. Consequently, it is incumbent upon an appellant challenging the decision of a board of revision to come forward and offer evidence that demonstrates its right to the value sought. *Cleveland Bd. of Edn.*, *supra*; *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493.

It is not enough, however, to simply come forward with some evidence of value. Neither is it sufficient to grant the requested increase or decrease merely because no evidence is adduced in contradiction to the claim. *Western Industries, Inc. v. Hamilton Cty. Bd. of Revision* (1960), 170 Ohio St. 340. In short, there is a burden of persuasion that rests with the appellant to convince this board that the appellant is entitled to the value that it seeks. *Cincinnati School Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1997), 78 Ohio St.3d 325.

Once competent and probative evidence of true value has been presented by the appellant, the other party to the appeal has a corresponding burden of providing evidence to rebut the appellant's evidence. *Springfield Local Bd. of Edn.* and *Mentor Exempted Village Bd. of Edn.*, *supra*.

Accordingly, this board must proceed to examine the available record and to determine value based upon the evidence before it. *Coventry Towers, Inc. v. Strongsville* (1985), 18 Ohio St.3d 120; *Clark v. Glander* (1949), 151 Ohio St. 229. In so doing, we will determine the weight and credibility to be accorded to the evidence presented. *Cardinal Fed. S. & L. Assn v. Cuyahoga Cty. Bd. of Revision* (1975), 44 Ohio St.2d 13.

Pursuant to Section 2, Article XII, Ohio Constitution, land and improvements are to be taxed according to “value”:

“Land and improvements thereon shall be taxed by uniform rule *according to value* \*\*\*.” (Emphasis added.)

R.C. 5713.03 further mandates that each separate tract be valued according to its “true value”:

“The county auditor, from the best sources of information available, shall determine, as nearly as practicable, *the true value* of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon \*\*\*. \*\*\*. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm’s length sale between a willing seller and a willing buyer within a reasonable length of time, *either before or after the tax lien date*, the auditor shall consider the sale price \*\*\* to be the true value for taxation purposes.” (Emphasis added.)

In *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410, the Supreme Court of Ohio addressed the manner by which the value of real estate is to be ascertained:

“The best method of determining value, when such information is available, is an actual sale of such property between one who is willing to sell but not compelled to do so and one who is

willing to buy but not compelled to do so. Paragraph two of the syllabus in *In Re Estate of Sears* [(1961)], 172 Ohio St. 443, \*\*\*. This, without question, will usually determine the monetary value of the property. However, such information is not usually available, and thus an appraisal becomes necessary. It is in this appraisal that the various methods of evaluation, such as income yield or reproduction cost, come into action. Yet, no matter what method of evaluation is used, the ultimate result of such an appraisal must be to determine the amount which such property should bring if sold on the open market.” *Id.* at 412.

See, also, *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.

It is long established 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, at the syllabus; *Park Investment*, *supra*. See, also, *Reynoldsburg Bd. of Edn. v. Licking Cty. Bd. of Revision* (1997), 78 Ohio St.3d 543; *Dublin-Sawmill Properties v. Franklin Cty. Bd. of Revision* (1993), 67 Ohio St.3d 575. An arm’s-length sale is comprised of three elements: 1) the sale is voluntary; 2) it generally takes place in an open market; and 3) the parties act in their own self-interest. *Walters v. Knox Cty. Bd. of Revision* (1988), 47 Ohio St.3d 23.

In fact, there is a rebuttable presumption that the sale price reflects true value. *Tanson Holdings, Inc. v. Darke Cty. Bd. of Revision* (1996), 74 Ohio St.3d 687. The Supreme Court has recognized that a rebuttable presumption exists that the sale has met all the requirements that characterize true value. *Cincinnati Bd. of Edn.*, *supra*; *Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 269, 2005-Ohio-4979. Thus, where there is an actual sale of real property, which is both recent and

arm's length, the county auditor, as well as this board, must consider such a sale as the best evidence of the property's true value. *Conalco and Park Investment*, supra. See, also, *Pingue v. Franklin Cty. Bd. of Revision* (1999), 87 Ohio St.3d 62.

However, R.C. 5713.04 states that "[t]he price for which such real property would sell at auction or forced sale shall not be taken as the criterion of its value." Furthermore, the Supreme Court of Ohio in *Dublin Senior Community L.P. v. Franklin Cty. Bd. of Revision* (1997), 80 Ohio St.3d 455, rejected a sheriff's sale as a reliable value indicator. Specifically, the court held:

"Moreover, the price that Dublin paid at the sheriff's sale is not a relevant consideration in establishing true value. R.C. 5713.04 prevents the price paid at the sheriff's sale from establishing the best evidence of true value, stating that '[t]he price for which such real property would sell at auction or forced sale shall not be taken as the criterion of its value.'" *Id.* at 458.

See, also, *HAP Enterprises v. Cuyahoga Cty. Bd. of Revision* (May 30, 1991), Cuyahoga App. Nos. 58678, et seq., unreported ("The use of the sale price from the sheriff's sale, which is a forced sale, is not valid evidence of a property's true value. R.C. 5713.04; *Dale v. Creighton* (June 13, 1994), Stark App. No. CA-9576, unreported ("Pursuant to R.C. 5713.03, the trial court may consider the sale price of a tract of land that has been the subject of an arm's length sale between a willing seller and a willing buyer that occurred within a reasonable length of time before or after the tax lien date. Contrary to Appellant's assertions, however, this Court is not prepared to find that the sheriff's sale was an arm's-length sale under the purview of that code section."))

On the other hand, this board has also found that a forced sale, either through

bankruptcy or at sheriff's sale, under limited circumstances, does not necessarily prevent the sale from being arm's length and render it useless in determining true or fair market value. *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (Jan. 15, 1999), BTA No. 1997-J-1385, unreported (sale at auction not to be automatically rejected when determining property's value for tax purposes); *Kozak v. Summit Cty. Bd. of Revision* (Dec. 20, 1996), BTA No. 1995-M-211, unreported (in relying upon the sale price to determine true value, the board concluded not all sales of real property at an auction constitute "forced sales"). See, also, *KE&G Enterprises, LLC v. Lorain Cty. Bd. of Revision* (Mar. 11, 2005), BTA Nos. 2003-V-1459, et al., unreported (relying on *Kozak*, supra, in context of sale of property at auction); *Beljon v. Portage Cty. Bd. of Revision* (Aug. 1, 1997), BTA No. 1996-T-996, unreported (relying upon *Kozak*, supra, and *Mills v. Lucas Cty. Bd. of Revision* (Apr. 29, 1994), BTA No. 1992-Z-553, unreported).

The Supreme Court in *Strongsville Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 112 Ohio St.3d 309, 2007-Ohio-6, subsequent to its decision in *Berea*, supra, distinguished *Berea* and held that a sale should not be relied upon where it was not conducted at arm's length, in that instance, involving duress.

All the properties at issue here, except 5699 Harshmanville Road (which was purchased from a bank) and 310 Prince Albert Blvd. (which was inherited), were purchased at sheriff's sales. Therefore, based on the case law, those sales are considered forced sales, and the sale prices are not reliable evidence of value, and must be rejected.

However, in 2005, 5699 Harshmanville Road was purchased by Mr. Mason from a bank. The property was listed with a realtor and exposed to the market. The

evidence reflected that there were other offers made to purchase the property, in addition to Mr. Mason's winning bid. There was no evidence presented that this sale was not an arm's-length transaction. Therefore, since the sale was both recent and arm's length, the sale price for 5699 Harshmanville Road is considered to be probative of the value of that property. And, the sale price is the value the BOR determined for the subject property.

Appellant sought to support his claims for reduction upon various aspects of the properties in need of repair. In *Throckmorton v. Hamilton Cty. Bd. of Revision* (1996), 75 Ohio St.3d 227, the Supreme Court addressed the burden attendant in advancing such claims, emphasizing that a party must demonstrate the impact such problems have upon the property's value:

“Evidence of needed repairs, or the cost of needed repairs, while a factor in arriving at true value, will not alone prove true value. It is the decrease in true value that may result from the need for repairs that is the important factor to be determined by the BTA.” *Id.* at 228.

See, also, *Gupta v. Cuyahoga Cty. Bd. of Revision* (1997), 79 Ohio St.3d 397.

The court's decision in *Throckmorton* mirrored this board's earlier reasoning in *Haydu v. Portage Cty. Bd. of Revision* (June 18, 1993), BTA No. 1992-H-576, unreported:

“A recitation of defects in a taxpayer's property, without more, is not especially helpful in determining a (lower) valuation. It is also necessary to establish the diminution [sic] in value caused by the defects, or some evidence of the value of the property as so diminished. Appellant has established to our satisfaction that there are detrimental aspects to the subject property (which, however, are shared by his neighbors to a large degree, and to certain of the comparables) but he has utilized none of the approaches to

value that would allow us to determine a value for the property as affected by the defects.” *Id.* at 7.

In the present matter, this board has not been presented with competent and probative evidence regarding the *impact* the claimed defects had upon the subject properties’ *value*. See, e.g., *Rinehart v. Montgomery Cty. Bd. of Revision* (July 6, 2007), BTA No. 2006-B-1257 (improvement had old plumbing and a roof requiring repair multiple times annually); *Gammarino v. Hamilton Cty. Bd. of Revision* (Mar. 8, 2002), BTA No. 2001-A-612, unreported (property claimed to have been in need of new cabinets, furnace, gutters, downspouts, painting, circuit breaker, roof, chimney, fireplace, etc.).

We recognize that an owner of property is permitted to express an opinion regarding the value of his or her property even though not formally qualified as an expert. See, e.g., *Smith v. Padgett* (1987), 32 Ohio St.3d 344, 347. See, also, *Amsdell v. Cuyahoga Cty. Bd. of Revision* (1994), 69 Ohio St.3d 572; *Tokles & Son, Inc. v. Midwestern Indem. Co.* (1992), 65 Ohio St.3d 621. However, it is equally clear that “[w]hile an owner may testify as to the value of his or her property, there is no requirement that the finder of fact accept that value as the true value of the property.” *WJJK Investments, Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29, 32. Indeed, this board is accorded considerable discretion in weighing the evidence presented. *Strongsville Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1997), 77 Ohio St.3d 402, 405; *Zukowski v. Franklin Cty. Bd. of Revision* (1994), 70 Ohio St.3d 503, 504; *Cardinal Federal S. & L. Assn.*, *supra*, paragraph two of the syllabus.

Mr. Mason did not provide this board with any viable basis for his opinions of value. He simply relied on the purchase price at sheriff's sale, and then deducted his costs of improving the properties. Where he did provide some comparable sales, those sales supported the county's valuation, and not his. Therefore, we find we cannot rely on Mr. Mason's opinions of value as probative indicators of the value of his properties.

In the absence of competent and probative evidence supporting a more appropriate value for most of the properties, we find no basis upon which to alter the auditor's and BOR's value determinations. See *Simmons v. Cuyahoga Cty. Bd. of Revision* (1998), 81 Ohio St.3d 47, 49 ("Where 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, without the board of revision's presenting any evidence."). 5699 Harshmanville Road is the exception. This board finds that the 2005 sale price of \$65,001 is reliable, competent, and probative evidence of value. *Berea*, supra.

Based upon the existing record and the applicable law, the Board of Tax Appeals finds the true and taxable values for the subject property as of January 1, 2005 to be as follows:

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1137		
5559 Barnard Avenue		
P70-14-14-25		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 54,990</u>	<u>\$ 19,250</u>
Total	\$ 76,790	\$ 26,880

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BTA No. 2006-R-1139 4825 Pacific Court P70-1-2-28		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 77,530</u>	<u>\$ 27,140</u>
Total	\$ 99,330	\$ 34,770

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1140 5171 Harshmanville Road P70-9-14-16		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 62,780</u>	<u>\$ 21,970</u>
Total	\$ 84,580	\$ 29,600

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1141 7772 Berchman Drive P70-18-3-3		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 66,960</u>	<u>\$ 23,440</u>
Total	\$ 88,760	\$ 31,070

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1142 5356 Flotron Avenue P70-15-11-61		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 62,960</u>	<u>\$ 23,440</u>
Total	\$ 84,760	\$ 31,070

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1143 5456 Flotron Avenue P70-15-5-38		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 75,930</u>	<u>\$ 26,580</u>
Total	\$ 97,730	\$ 34,210

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1144 5699 Harshmanville Road P70-1-7-64		
Land	\$ 16,150	\$ 5,650
Building	<u>\$ 48,851</u>	<u>\$ 17,100</u>
Total	\$ 65,001	\$ 22,750

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1145 7025 Highbury Road P70-19-13-44		
Land	\$ 21,800	\$ 7,630
Building	<u>\$ 72,450</u>	<u>\$ 25,360</u>
Total	\$ 94,250	\$ 32,990

<u>PARCEL NUMBER</u>	<u>TRUE VALUES</u>	<u>TAXABLE VALUES</u>
BTA No. 2006-R-1146 310 Prince Albert Blvd. I39-7-8-21		
Land	\$ 10,380	\$ 3,630
Building	<u>\$ 46,970</u>	<u>\$ 16,440</u>
Total	\$ 57,350	\$ 20,070

Accordingly, it is the order of the Board of Tax Appeals that the Auditor of Montgomery County list and assess the subject property in conformity with this decision and order. It is further ordered that this value be carried forward in accordance with the law.

ohiosearchkeybta