

# OHIO BOARD OF TAX APPEALS

Board of Education of the Akron City )  
School District, )  
 )  
Appellant, )  
 )  
vs. )  
 )  
Summit County Board of Revision, )  
Summit County Fiscal Officer, and )  
David Bowman, )  
 )  
Appellee. )

CASE NO. 2007-A-1263  
(REAL PROPERTY TAX)  
DECISION AND ORDER

## APPEARANCES:

For the Appellant - Brindza McIntyre & Seed LLP  
David H. Seed  
1111 Superior Avenue, Suite 1025  
Cleveland, Ohio 44114

For the County Appellees - Sherri Bevan Walsh  
Summit County Prosecuting Attorney  
Regina M. Vanvorous  
Assistant Prosecuting Attorney  
220 South Balch Street, Suite 118  
Akron, Ohio 44302-1606

For the Appellee Property Owner - David Bowman, pro se  
9891 Kings Canyon Drive  
Huntington Beach, California 92646

Entered June 9, 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 Summit County Board of Revision. In said decision, the board of revision determined the taxable value of the subject real property for tax year 2006.

The matter was submitted to the Board of Tax Appeals upon the notice of appeal and the statutory transcript certified to this board by the county board of revision. Both the appellant board of education and the county appellees waived their right to appear at a hearing, and the appellee property owner did not appear on the January 14, 2009 hearing date. Although all parties were duly notified by letter dated January 14, 2009, that a schedule had been established for the submission of briefs, only the board of education filed a brief.

The subject property, vacant land,<sup>1</sup> is located in the Akron city school district taxing district and is identified on the auditor's records as parcel number 67-16185. The value of the parcel, as determined by the county fiscal officer and retained by the board of revision, is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$205,720	\$ 72,000
Building	-0-	-0-
Total	\$205,720	\$ 72,000

In its notice of appeal, the board of education alleges that the correct total true value for the subject parcel, and a second parcel, #67-60632,<sup>2</sup> is \$338,000, with a

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<sup>1</sup> There is some question as to whether the subject parcel consists of land only or land and building. S.T. at Ex. 1, 2, 4, 5, 8, 9, 10, 16. It appears from the contents of the statutory transcript, certified to this board by the county board of revision, that the parcel's valuation that was complained of before, and decided by, the board of revision, namely #67-16185, consists of land only, and that parcel #67-60632, which appellant attempts to appeal to this board with the land only parcel, consists of building value only.

<sup>2</sup> It appears that appellant believes this parcel was a part of the sale of the subject parcel, #67-16185, but there is nothing in the record to support such conclusion.

corresponding taxable value of \$118,300, based upon a sale of the subject in April 2006. However, because the board of education listed only parcel #67-16185 on its original increase complaint with the county board of revision, the board of revision had jurisdiction over and rendered a decision regarding only that single parcel, and correspondingly, this board only has jurisdiction over such parcel. See *Sunset Development/Sugar Creek, Ltd. v. Greene Cty. Bd. of Revision* (Apr. 30, 2004), BTA No. 2002-G-2000, unreported; *Cincinnati Gas & Electric Co. v. Hamilton Cty. Bd. of Revision* (Dec. 1, 2000), BTA No. 1998-L-1386, unreported. Accordingly, the valuation evidence in the record before this board will be considered and applied as it relates to parcel # 67-16185 only.

First, in reviewing how this case came to us, we note that in March 2007, relying upon the price obtained in a sale of the subject property on April 12, 2006, the board of education filed a complaint against the valuation of real property with the Summit County Board of Revision seeking an increase in the subject's total true value to \$338,000. Attached thereto, the BOE included a copy of the deed and conveyance fee statement from such sale. S.T. at Ex. 1. No counter-complaint was filed and the property owner did not appear or testify at the hearing before the BOR. On September 6, 2007, the BOR issued its decision, retaining the values for the subject property as determined by the fiscal officer. Thereafter, the board of education appealed the BOR's determination to us.

We must begin by noting that a party who asserts a right to an increase or decrease in the value of real property has the burden to prove the right to the value

asserted. *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336; *Crow 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 which 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. Once an appellant has presented competent and probative evidence of true value, other parties asserting a different value then have a corresponding burden of providing sufficient evidence to rebut the appellant's evidence. *Springfield Local Bd. of Edn.*, supra; *Mentor Exempted Village Bd. of Edn.*, supra.

As we consider the board of education's position in this matter, we note the copies of the deed and conveyance fee statement offered by the board of education to the BOR as support for its position that the April 2006 sale of the subject is the best evidence of its value for tax year 2006. The deed and conveyance fee statement indicate that the subject was transferred on April 12, 2006, to David Bowman for the amount of \$338,000. Both the conveyance fee statement and the deed reference only one parcel number, specifically the subject parcel, #67-16185. Thus, the sale documents support the conclusion that only one parcel was involved in the subject sale. Arguably, then, it is the board of education's contention that such sale constitutes a valid, recent,<sup>3</sup> arm's-length sale, and, accordingly, the transfer price should be

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<sup>3</sup> In considering whether such sale can be considered recent enough to be indicative of the value of the subject, we note that the Supreme Court has recognized that a sale may be considered recent for

considered the best evidence of the value of the subject parcel as of January 1, 2006.

We agree.

R.C. 5713.03 provides, in pertinent part, that:

“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.”

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. Specifically, in *Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 269, 2005-Ohio-4979, the Supreme Court held “that when the property has been the subject of a recent arm’s-length sale between a willing seller and a willing buyer, the sale price of the property shall be ‘the true value for taxation purposes.’ R.C. 5713.03.” *Berea*, at 5. See, also, *Zazworsky v. Licking Cty. Bd. of Revision* (1991), 61 Ohio St.3d 604; *Hilliard City School 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.

Since the property owner did not appear before this board or the board of revision to offer any evidence or testimony about the sale in question or the subject property, and because there is nothing in the record to dispute that the sale in question

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purposes of R.C. 5713.03 even though the sale occurs months before or after tax lien date. See *R.R.Z. Associates v. Cuyahoga Cty. Bd. of Revision* (1988), 35 Ohio St.3d 198; *Hilliard City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1990), 53 Ohio St.3d 57; *W.S. Tyler Co. v. Lake Cty. Bd. of Revision* (1991), 57 Ohio St.3d 57.

was arm's length in nature, this board finds that the best evidence of value of the subject property is its \$338,000 sale price paid on April 12, 2006. Thus, with no competent or probative evidence in the record rebutting the presumption that the sale price is the best evidence of value, the value of the subject parcel as of January 1, 2006, shall be as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$338,000	\$118,300
Building	-0-	-0-
Total	\$338,000	\$118,300

The Fiscal Officer of Summit County is hereby ordered to cause the 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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