



revision, and the record of the hearing before this board, at which only the appellants appeared.

The subject real property, a residential parcel upon which a duplex is situated, and two adjoining parcels, is located in the #16 Vermilion local school district taxing district, Lorain County, Ohio, and appears on the auditor's records as parcel numbers 01-00-002-102-037, 01-00-002-102-038, and 01-00-002-102-049. The value of the parcels, as determined by the auditor and by the board of revision, is as follows:

Parcel # 01-00-002-102-037

AUDITOR

	TRUE VALUE	TAXABLE VALUE
Land	\$ 87,500	\$ 30,630
Bldg	-0-	-0-
Total	\$ 87,500	\$ 30,630

BOARD OF REVISION

	TRUE VALUE	TAXABLE VALUE
Land	\$ 78,700	\$ 27,550
Bldg	-0-	-0-
Total	\$ 78,700	\$ 27,550

Parcel # 01-00-002-102-038

AUDITOR

	TRUE VALUE	TAXABLE VALUE
Land	\$ 89,100	\$ 31,190
Bldg	200	70
Total	\$ 89,300	\$ 31,260

BOARD OF REVISION

	TRUE VALUE	TAXABLE VALUE
Land	\$ 80,200	\$ 28,070
Bldg	-0-	-0-
Total	\$ 80,200	\$ 28,070

Parcel # 01-00-002-102-049

AUDITOR

	TRUE VALUE	TAXABLE VALUE
Land	\$ 110,900	\$ 38,820
Bldg	96,100	33,640
Total	\$ 207,000	\$ 72,460

BOARD OF REVISION

	TRUE VALUE	TAXABLE VALUE
Land	\$ 99,800	\$ 34,930
Bldg	84,100	29,440
Total	\$ 183,900	\$ 64,370

In their notice of appeal to this board, appellants contend that the auditor and board of revision have overvalued the subject property and seek a total true valuation for the subject parcels of \$279,000, based upon appraisals of the subject.

Ms. West and Mr. Strauss appeared before this board and testified, essentially reiterating the position they espoused before the BOR. Specifically, they questioned the substantial increase in the subject's valuation, especially based upon the characteristics of the immediate neighborhood. H.R. at 10-11. They believe that the county compared the instant property to newer, more affluent neighborhoods in the area. H.R. at 11. They offered, as evidence in support of their position, two sets of appraisals, Exs. 2, 3; S.T. at Ex. D, Attachment III. The first appraisal, which valued the subject property as of March 16, 2004 and which had been secured for use in obtaining a line of credit, was originally submitted to the BOR. H.R. at 23. The second set of appraisals, which valued the subject property as of July 29, 2008 and was secured for purposes of supporting the appellants' valuation decrease request, was only

submitted to this board. H.R. at 26; Exs. 2, 3. Neither of the authors of the appraisal reports appeared before the BOR or this board. The appellants also pointed to the sale of a neighboring property in 2001 for \$121,000 as supportive of the value they seek. H.R. at 28-29.

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 which 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.

With regard to the appraisal evidence offered by the appellants, we note that the appraisers did not appear before the BOR or this board to authenticate the appraisals that were submitted, testify regarding their professional credentials and the methodologies utilized in deriving their valuation conclusions, or be cross-examined/questioned by the opposing party or members of the BOR or this board's examiner. As we noted in *Evenson v. Erie Cty. Bd. of Revision* (Apr. 12, 2002), BTA No. 2001-V-770, unreported, a view expressed by this board on numerous other occasions:

“Generally, documentary evidence which is received at hearing needs to be identified and authenticated by a

witness who testifies under oath and is subject to examination by both the opposing party and an attorney examiner of this board. Furthermore, that witness' qualifications and credibility may be assessed during such examination. However, in this case, such safeguards are noticeably absent since the individuals who prepared the appraisals did not appear at hearing. Given our inability to assess the appraisers' qualifications and credibility and the failure to have the documents authenticated, we find that each report constitutes hearsay upon which this board may not rely in reaching a decision." Id. at 3-4.

See, also, *Specca v. Montgomery Cty. Bd. of Revision* (Mar. 25, 2008), BTA No. 2006-K-2144, unreported; *Bd. of Edn. of the Northridge Local Schools v. Montgomery Cty. Bd. of Revision* (Jan. 28, 2005), BTA No. 2004-B-35, unreported, settled on appeal, Sup. Ct. No. 2005-0390, *08/16/2005 Case Announcements*, 2005-Ohio-4216; *Fisher v. Morrow Cty. Bd. of Revision* (Feb. 15, 2008), BTA No. 2006-V-717, unreported; *Giallombardo v. Montgomery Cty. Bd. of Revision* (May 7, 2004), BTA No. 2003-V-875, unreported; *Shanker v. Franklin Cty. Bd. of Revision* (July 19, 2002), BTA No. 2002-J-82, unreported. These cases reflect the proposition that "[a]n expert's opinion of value in a tax valuation case is of little help to the trier of fact if the expert does not explain the basis for the opinion." *Freshwater v. Belmont Cty. Bd. of Revision* (1997), 80 Ohio St.3d 26, 30.

Further, with regard to the valuation dates as set forth on the appraisals<sup>1</sup> submitted by appellants, we note that the first one values the property as of March 16,

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<sup>1</sup> Appellant also indicated that one of the appraisals was done for financing purposes. This board has generally rejected such reports, finding that "they are not necessarily a complete and thorough evaluation of the property." *Matuszewski v. Erie Cty. Bd. of Revision* (June 17, 2005), BTA No. 2004-T-1140, unreported, at 7.

2004, basically one year and nine months before the tax lien date under consideration. S.T. at Ex. D, Attachment III. The second set of appraisals values the subject as of July 29, 2008, approximately one year and seven months after the tax lien date in question. Exs. 2, 3. We find the probative value of the conclusions set forth in such reports to be limited, at best. Based upon the “as of” dates that were utilized, the accuracy of the findings within the reports becomes questionable since the dates upon which all conclusions are based are at least one and one-half years before or after the actual date in question. In addition, it follows that appellants’ reliance upon a sale some five years before the tax lien date under consideration as evidence of the subject’s value as of the 2006 tax lien date would also present the same concerns; the instant valuation determination must be premised on evidence relevant to the tax lien date in question. See *Freshwater, supra; Olmsted Falls Village Assn. v. Cuyahoga Cty. Bd. of Revision* (1996), 75 Ohio St.3d 552.

Thus, having no probative evidentiary support in the record for the valuation sought by the appellants, we must also consider the BOR’s valuation. Our analysis of the BOR’s determination routinely has begun with the Supreme Court’s holding in *Simmons v. Cuyahoga Cty. Bd. of Revision* (1988), 81 Ohio St.3d 47, 49 that “[w]here 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.” However, the foregoing holding in *Simmons, supra*, appeared to have been tempered in *Columbus City School*

*Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (2001), 90 Ohio St.3d 564, 567, where the court held “[w]hen the BTA reviews the evidence in a case in which the statutory transcript is the only evidence, the BTA must review the transcript and ‘make its own independent judgment based on its weighing of the evidence contained in the transcript.’ *Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1996), 76 Ohio St.3d 13, 15 \*\*\*. When the BTA reviewed the transcript in this case, it found that ‘there is no evidence or other information in the statutory transcript to explain the action taken by the BOR.’ By affirming the BOR’s valuation, the BTA affirmed a valuation that was not supported by any evidence.” Under the latter pronouncement, we would find little evidentiary support for the BOR’s value herein.

Then, later, in *Bedford Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 113 Ohio St.3d 281, 2007-Ohio-5237, the Supreme Court concluded that “the BTA erred in reinstating the auditor’s determination of value when the taxpayer had presented sufficient evidence to the BOR to justify the reduction the BOR ordered.” The court relied on its holding in *Dayton-Montgomery Cty. Port Auth. v. Montgomery Cty. Bd. of Revision*, 113 Ohio St.3d 281, 2007-Ohio-1948, where it held “when the evidence presented to the board of revision or the BTA contradicts the auditor’s determination in whole or in part, and when no evidence has been adduced to support the auditor’s valuation, the BTA may not simply revert to the auditor’s determination.” *Id.* at ¶27. Even though this board did not find a stated explanation for the BOR’s adjustment, the court criticized the board for reinstating the auditor’s determination as the default value. *Bedford Bd. of Edn.*, *supra*.

Thus, the question for us becomes what constitutes “sufficient” evidence to justify a reduction in valuation. In the instant record, there is limited evidence to support the valuation adopted by the BOR, as it was essentially the same information that was presented to this board. We have previously rejected such evidence as not being competent and probative of value. However, the BOR saw fit to reduce the subject’s valuation, while not to the value opined by the appellants, but to a value lower than that which the auditor had determined. Arguably, the auditor must have conceded to the reduced valuation for the subject, since there is no indication in the record that the auditor attempted to defend and/or maintain the auditor’s original valuation.

Therefore, the value of the subject parcels as of January 1, 2006, shall be that which the board of revision previously determined, as follows:

Parcel # 01-00-002-102-037

	TRUE VALUE	TAXABLE VALUE
Land	\$ 78,700	\$ 27,550
Bldg	-0-	-0-
Total	\$ 78,700	\$ 27,550

Parcel # 01-00-002-102-038

	TRUE VALUE	TAXABLE VALUE
Land	\$ 80,200	\$ 28,070
Bldg	-0-	-0-
Total	\$ 80,200	\$ 28,070

Parcel # 01-00-002-102-049

	TRUE VALUE	TAXABLE VALUE
Land	\$ 99,800	\$ 34,930
Bldg	84,100	29,440
Total	\$ 183,900	\$ 64,370

The Auditor of Lorain County is hereby ordered to cause the county 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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