

OHIO BOARD OF TAX APPEALS

Jonathan Fuller,)	
)	CASE NO. 2007-A-995
Appellant,)	
)	
vs.)	(REAL PROPERTY TAX)
)	
)	DECISION AND ORDER
Ottawa County Board of Revision and)	
Ottawa County Auditor,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant - Jonathan Fuller, pro se
36 Cincinnati Avenue
Huron, Ohio 44839

For the County
Appellees - James R. Gorry
Attorney at Law
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 Ottawa 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, the statutory transcript certified to this board by the county board of revision, and the record of the hearing before this board at which the appellant and

counsel to the county appellees appeared. The appellant offered testimony and evidence into the record in support of his opinion of value. See H.R.; Exs. A, B. The county appellees did not offer any evidence or testimony, but chose to rely upon their cross examination of the appellant to support their position that the auditor's valuation of the subject should be retained.

The subject waterfront residential property is located on South Bass Island, in the Put-in-Bay/Put-in-Bay Village school taxing district, and is identified on the auditor's records as parcel #024-08427-11267-000. The value of the parcel, as determined by the county auditor and retained by the board of revision, is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$389,470	\$ 136,310
Building	73,600	25,760
Total	\$463,070	\$ 162,070

Mr. Fuller alleges that the correct true value for the land only is \$238,026.65, based primarily upon the assessed values of other nearby properties. He does not contest the value assigned to the subject improvements.

We 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 review the record established before the board of revision, we note that Mr. Fuller's position was essentially the same as that which he presented to this board. Mr. Fuller's decrease request emanates from his desire for "consistency in the appraisal process of the land portion of the east half of Lot A , Lot B and the west half of Lot C, all in the Put-In-Bay Resort Company Subdivision A on South Bass Island. Although the dividing property lines do not show on the computer GIS of the county I have been assured that the property is still three parcels ***." Ex. B at 1. Mr. Fuller's current parcel is apparently made up of Lot B and two half lots, Lot A and Lot C, with the two half lots characterized as unbuildable. H.R. at 8. Consequently, Mr. Fuller contests the land valuation of the subject parcel, claiming that the half lots have been valued at a higher rate as if they were buildable lots, unlike other similar unbuildable lots in the area which have been valued at a lower rate. H.R. at 8-9.

Further, Mr. Fuller contends that the value of Lot B should also be decreased and would be more appropriately valued based upon the value attributed to another lot in the same subdivision which is identical in size to the subject, i.e., John

Crites' lot. Mr. Fuller indicated that "[i]t seems that some of the inconsistencies of the tax figures come from an inconsistency of the means of measuring the lot width. These are not consistent within the tax neighborhood, some lots are taxed on the road frontage and others are taxed on the width of the lot perpendicular to the lot edges (the mathematically correct measure). In addition, the lot depths are not consistent within County records." Ex. B at 1.

Finally, we note that Mr. Fuller clearly indicated that he is not a real estate agent, appraiser, or contractor, and he is not questioning the value of the structure on the property. Ex. B at 1; H.R. at 7.

At the outset, the board has reviewed appellant's Exhibit A, a letter from the appraisal department of the Ottawa County Auditor's office. If the assertions made therein are found to be accurate, i.e., that Mr. Fuller's property should be considered three separate parcels and not the one that is currently before this board, we have no jurisdiction to remedy such situation. Specifically, appellant would have to work directly with the county to correct the description of the subject land. See R.C. 319.35. Therefore, this board's determination herein shall only reflect a value for a single parcel, consisting of half Lot A, Lot B, and half Lot C.

Considering appellant's argument regarding the inequities in valuation between his property and neighboring properties, we have previously found such comparison to the taxable values assigned to other properties unpersuasive. In *Benit v. Delaware Cty. Bd. of Revision* (Mar. 18, 1994), BTA No. 1993-B-722, unreported, we held:

“The Appellant has attempted to show a lower value than that assessed by the BOR. However, appellant’s presentation of evidence fails to carry the burden of proof as to what the property is actually worth. The appellant has submitted a comparative analysis of the tax valuation of certain neighboring land. However, we have often stated that such information is not particularly helpful. “Tax valuations are not sales, and a comparative analysis thereof is always subject to the objection that the tax valuations of the compared properties are not themselves market value.’ *Henry W. Haydu v. Portage Cty. Bd. of Revision* (June 18, 1993), BTA No. 1992-H-576, unreported. *Paul L. and M. Courtney Caron v. Hamilton Cty. Bd. of Revision* (August 27, 1993), BTA No. 1992-B-879, unreported.” Id. at 6.

See, also, *WJJK Investments, Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29, 31 (“Merely showing that two parcels of property have different values without more does not establish that the tax authorities valued the properties in a different manner.”). Appellant’s own evidence bears out the foregoing when he stated that the county records demonstrate an inconsistent approach to valuation within his neighborhood; there is nothing in the record to necessarily support appellant’s position that his valuation is incorrect and the others he compares his to are correct. In fact, at the hearing before the BOR, there was at least some indication that the adjacent property may have been improperly given a reduction during the county’s “informal” review process that it otherwise would not have been given. Further, the county explained to Mr. Fuller that values are not assigned randomly to the island properties, but are based on market and neighborhood characteristics on the island, with standards applied to each lot within such markets/neighborhoods uniformly. S.T. at Ex. 5.

Accordingly, based upon the foregoing, this board finds that appellant has failed to demonstrate that the reduction in value he seeks has a basis in the market, as of the tax lien date in question. See *Cleveland Bd. of Edn.*, supra, at 337; *Springfield Local Bd. of Edn.*, supra, at 495; *Mentor Exempted Village Bd. of Edn.*, supra, at 319. Therefore, we find, as of January 1, 2006, the value of the subject parcel shall be that which the county auditor determined and the board of revision retained, as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$389,470	\$ 136,310
Building	73,600	25,760
Total	\$463,070	\$ 162,070

The Auditor of Ottawa 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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