

OHIO BOARD OF TAX APPEALS

Board of Education of the South- Western City Schools,)	CASE NO. 2007-B-230
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Franklin County Board of Revision,)	
Franklin County Auditor, and)	
Groves Apartments, Ltd.,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant		- Rich, Crites & Dittmer, LLC Mark H. Gillis 300 East Broad Street, Suite 300 Columbus, Ohio 43215
For the County Appellees		- Ron O'Brien Franklin County Prosecuting Attorney William J. Stehle Assistant Prosecuting Attorney 373 South High Street Columbus, Ohio 43215
For the Appellee Property Owner		- Wiles, Boyle, Burkholder & Brindgardner Co., L.P.A. Bruce H. Burkholder, Esq. Kerry T. Boyle, Esq. 300 Spruce Street, Floor One Columbus, Ohio 43215

Entered February 10, 2009

Ms. Margulies and Mr. Dunlap concur. Mr. Johrendt not participating.

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, Board of

Education of the South-Western City Schools (“BOE”), from a decision of the Franklin County Board of Revision. In said decision, the board of revision determined the taxable value of the subject real property for tax year 2005.

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, the record of the hearing before this board, and the briefs filed by the BOE and the property owner, Groves Apartments, Ltd. (“Groves”). The subject real property, a 178-unit apartment complex, is located in the city of Grove City-South-Western City School District taxing district, Franklin County, Ohio, and appears on the auditor’s records as parcel number 040-010037-00. The value of the parcel, as determined by the auditor, is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 723,100	\$ 253,090
Bldg	7,626,900	2,669,415 ¹
Total	\$8,350,000	\$ 2,922,505

The value of the parcel, as determined by the BOR, is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 723,100	\$ 253,090
Bldg	6,876,900	2,406,920
Total	\$7,600,000	\$ 2,660,010 ¹

¹ Per statutory transcript.

Appellant contends that the board of revision has undervalued the subject by relying upon the property owner's appraisal as a basis for its valuation conclusion and that it should be valued at that which the auditor previously determined.

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 that 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.

When determining value, it has long been held by the Supreme Court 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; *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. Absent a recent sale, as in the instant case, true value in money can be calculated by applying any of three alternative methods provided for in Ohio Adm. Code 5703-25-07: 1) the market data approach, which compares recent sales of comparable properties, 2) the income approach, which capitalizes the net income attributable to the property, and 3) the cost approach, which depreciates the improvements to the land and then adds them to the land value.

At the hearing before this board, the appellant offered no evidence or testimony to this board in support of its position. However, appellant did file a brief in this matter. The county appellees appeared by and through counsel but did not present any additional evidence. Groves did not appear at the board hearing but filed a brief on October 3, 2008.

In this regard, we remind the parties that our duty is to conduct a de novo review of the record and to “determine the value of the property.” R.C. 5717.03. Where the parties present no additional evidence on appeal, we will independently review the record developed by the parties before the county board of revision and render a determination regarding value that is consistent with the existing information. *Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1996), 76 Ohio St.3d 13, 15 (quoting *Black v. Cuyahoga Cty. Bd. of Revision* (1985), 16 Ohio St.3d 11, 14, and holding that this board ““has a duty on appeal to independently weigh and evaluate all evidence properly before it.””).

At the BOR hearing, Groves offered the appraisal and testimony of James R. Horner, MAI, a state-certified general appraiser in Ohio.

In his report, Mr. Horner determined that the highest and best use of the subject site was as it was currently utilized. S.T., Ex. 10 at 33.

In order to determine the subject’s market value, Mr. Horner utilized both the sales comparison and income approaches to value. He did not feel it was appropriate to utilize the cost approach in his valuation determination because “[t]he subject is improved with a 5-year old, multi-family complex. Rental and market

conditions are such that there is external obsolescence within this segment. These conditions exist because of the low mortgage interest rates which have had a negative impact upon the economic justification for apartment development. These conditions, coupled with the age of the structure, are such that the Cost Approach would not be considered a reliable barometer for estimating value. Furthermore, there is functional obsolescence associated with the improvements as a result of the conditions set forth previously.” S.T., Ex. 10 at 34.

Using the sales comparison approach, Mr. Horner compared the subject to eight sales of properties dating from December 2004 to November 2006 that he found to be similar to the subject. S.T., Ex. 10 at 39. From the data taken from those sales, Mr. Horner determined a price per unit range of \$30,380 to \$39,004, with an average per unit value of \$35,000. Adjusting this figure to account for the superior nature of the subject property, he estimated a market value of \$42,500 per unit for the subject. From this, he determined a total value of \$7,600,000 utilizing the sales comparison approach. S.T., Ex. 10 at 38.

Mr. Horner also completed an income approach analysis of the subject property. First, he estimated the rental rates based upon the subject’s operating history. A range of rates for the different units from \$620 to \$660 per month resulted. Utilizing these rental figures, Mr. Horner estimated an effective gross income of \$1,400,000. S.T., Ex. 10 at 36.

Mr. Horner utilized the subject’s historical data, as well as estimated, to determine expenses of \$579,850 to be appropriate for the property. His reserves for

replacements was set at \$350 per unit, or \$62,300. He noted that “[e]xpenses for this type of project would typically be in the range of \$3,500 to \$4,000 per unit or 45% of the effective income. I have estimated expenses and reserves at \$3,600 per unit or 46% of effective income.” S.T., Ex. 10 at 36. The resulting net income was \$757,850. He used his aforementioned sales comparables to conclude to an overall capitalization rate of 10%, which yielded a rounded indication of value of \$7,600,000 via the income approach. S.T., Ex. 10 at 36-37.

Giving the most weight to the conclusions reached via the income capitalization approach due to the income-producing nature of the subject, Mr. Horner concluded to an overall value of \$7,600,000 for the subject. S.T., Ex. 10 at 40.

At the BOR hearing, the property owner also offered the testimonies of Jeff Coopersmith and Brad Johnson, co-managers of Groves. S.T., Audio Recording.

The board of education did not offer any evidence or testimony regarding the subject’s value, but chose to primarily rely upon its cross-examination of the property owner’s appraiser to attempt to establish that the appraisal of the subject did not constitute competent, probative, and credible evidence of value. However, we find that appellant’s appraiser and witnesses sufficiently and competently responded to the questions that were propounded. Further, we find that there was no evidence or testimony elicited from the witnesses or appraiser or offered by the appellant to sufficiently rebut, factually, the information contained in the appraisal.

In its brief, the board of education argued that there were problems with some of the approaches and data utilized by the appraiser. Appellant’s Brief at 2-4.

However, upon careful examination, we find the BOE never established how those problems affected the subject's valuation by the appellee's appraiser.

Thus, upon review of the property owner's appraisal report, the property owner has offered sufficient, probative evidence of the subject's value. Accordingly, based upon the preponderance of evidence currently before this board, we find the value of the subject property, as of January 1, 2005, shall be that which the board of revision determined, as supported through the property owner's appraisal. The values for the subject parcels shall be as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 723,100	\$ 253,090
Bldg	6,876,900	2,406,910 ²
Total	\$7,600,000	\$ 2,660,000

It is the decision and order of the Board of Tax Appeals that the Franklin County Auditor shall list and assess the subject property in conformity with this decision.

ohiosearchkeybta

² Recalculated from the statutory transcript figures to comport to the total true value.