

## OHIO BOARD OF TAX APPEALS

|                                |   |                       |
|--------------------------------|---|-----------------------|
| Jason Root,                    | ) | CASE NOS. 2007-H-1412 |
|                                | ) | 2007-H-1413           |
| Appellant,                     | ) |                       |
|                                | ) | (REAL PROPERTY TAX)   |
| vs.                            | ) |                       |
|                                | ) | DECISION AND ORDER    |
| Lucas County Board of Revision | ) |                       |
| and the Lucas County Auditor,  | ) |                       |
|                                | ) |                       |
| Appellees.                     | ) |                       |

### APPEARANCES:

|                          |   |   |
|--------------------------|---|---|
| For the Appellant        | - | Jason Root, pro se<br>2409 Orchard Road<br>Ottawa Hills, Ohio 43606   |
| For the County Appellees | - | Julia R. Bates<br>Lucas County Prosecuting Attorney<br>Carol L. Bruggeman<br>Assistant Prosecuting Attorney<br>One Government Center, Suite 500<br>Toledo, Ohio 43604 |

Entered June 16, 2009

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

These causes and matters are before the Board of Tax Appeals from notices of appeal filed by appellant Jason Root (“property owner”). The property owner challenges decisions of the Lucas County Board of Revision (“BOR”) that determined the value, for ad valorem tax purposes, of certain real property for tax year 2006. We consider these matters on appellant’s notices of appeal and the statutory transcripts (“S.T.”) certified by the Lucas County Auditor (“auditor”) pursuant to R.C. 5717.01. Although a hearing was convened before this board, the property owner and the appellees waived their appearance and rested on the statutory transcript.

The subject real property is located in the Sylvania city schools taxing district and is identified in the auditor's records as parcel numbers 79-72980 and 79-72981. The property consists of two unimproved lots in a residential subdivision that Root purchased in January 2001 for the amounts of \$181,752 and \$176,654, respectively. S.T. at property record cards. The values of the subject property, as originally assigned by the auditor, are \$122,100 and \$122,600, respectively.

Through complaints filed with the BOR, the property owner asserted that the true value for each lot should be reduced to \$46,600. S.T. At the BOR hearing, Root tendered auditor documents regarding three other properties that sold in January and April 2004 with values of \$49,000 to \$63,617. Id. On consideration of the information presented, the BOR ultimately decided to make no change to the auditor's assessment of the subject property. From the BOR's decision, the property owner appealed to this board, again asserting in his notices of appeal that the true value of each lot should be \$46,600.

Where the parties elect to 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.”).

In considering appellant's appeal, we acknowledge at the outset the standard by which our review is to be conducted. As has been pointed out by the Supreme Court, "[w]hile a determination of the true value of real property by a board of revision is entitled to consideration by the BTA, such determination is not presumptively valid." *Amsdell v. Cuyahoga Cty. Bd. of Revision* (1994), 69 Ohio St. 3d 572, 574. See, also, *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, 495; *Cambridge Arms, Ltd. v. Hamilton Cty. Bd. of Revision* (1994), 69 Ohio St. 3d 337, 338. Nevertheless, appellants challenging a decision of a county board of revision must support their valuation claim:

“When cases are appealed from a board of revision to the BTA, the burden of proof is on the appellant, whether it be a taxpayer or a board of education, to prove its right to an increase [in] or decrease from the value determined by the board of revision. *Cincinnati School Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1997), 78 Ohio St.3d 325, 328, \*\*\*. The appellant before the BTA must present competent and probative evidence to make its case; it is not entitled to a reduction or an increase in valuation merely because no evidence is presented against its claim. *Hibschman v. Bd. of Tax Appeals* (1943), 142 Ohio St. 47, \*\*\*.” *Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (2001), 90 Ohio St.3d 564, 566. (Parallel citations omitted.)

See, also, *Bd. of Edn. of the Hamilton Local Schools v. Franklin Cty. Bd. of Revision* (June 10, 1997), Franklin App. Nos. 96APH09-1228, et seq., unreported (“When an issue concerning the true value of real property for taxation purposes is presented to the BTA, the value set by the BOR is not presumptively correct. \*\*\* However, in a hearing before the BTA, the taxpayer is obliged to prove his right to a reduction in value.”).

At the BOR's hearing, Root presented the BOR with documents and testified as to several alleged comparable properties that he opined should indicate the subject's values. S.T. We find this evidence to be of little utility in determining the subject property's value. The purpose of the sales comparison approach is to derive an estimate of value by comparing the property under consideration to similar properties recently sold within the marketplace. See *The Appraisal of Real Estate* (13<sup>th</sup> Ed. 2008) at 297-314, which emphasizes the need for familiarity with the properties used in any comparative analysis.<sup>1</sup>

With nothing more than a very limited list of raw sales data, a trier of fact is left to speculate as to how common differences, e.g., location, size, date of sale as opposed to tax lien date, etc., may affect a value determination. Further, there is no evidence as to the arm's-length nature of the purported comparable sales. A review of the record indicates the property owner provided no other evidence in support of his opinion of the subject's value. We find the evidence presented by the property owner before the BOR was not sufficiently reliable or probative to support the decrease sought.

Accordingly, we find appellant has failed to satisfy his affirmative burden on appeal, see, e.g., *Simmons v. Cuyahoga Cty. Bd. of Revision* (1998), 81 Ohio St.3d 47, and it is therefore the decision of the Board of Tax Appeals that the true and taxable values of the subject property, as of January 1, 2006, are as follows:

Parcel number 79-72980

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<sup>1</sup> In *Freshwater v. Belmont Cty. Bd. of Revision* (1991), 58 Ohio St.3d 140, 141, the court indicated

|          | <u>TRUE VALUE</u> | <u>TAXABLE VALUE</u> |
|----------|-------------------|----------------------|
| Land     | \$122,100         | \$42,740             |
| Building | <u>\$0</u>        | <u>\$0</u>           |
| Total    | \$122,100         | \$42,740             |

Parcel number 79-72981

|          | <u>TRUE VALUE</u> | <u>TAXABLE VALUE</u> |
|----------|-------------------|----------------------|
| Land     | \$122,600         | \$42,910             |
| Building | <u>\$0</u>        | <u>\$0</u>           |
| Total    | \$122,600         | \$42,910             |

The Lucas County Auditor is hereby ordered to list and assess the subject property in conformity with the decision as announced herein.

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Footnote contd. \_\_\_\_\_  
that “[a]ppraisal manuals and treatises can help in the valuation of real property.”