

## OHIO BOARD OF TAX APPEALS

Gary and Susan Harris,	)	CASE NO. 2007-H-409
	)	
Appellants,	)	(REAL PROPERTY TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Crawford County Board of Revision and the Crawford County Auditor,	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellants		- Gary and Susan Harris, pro se 1329 Nevada-Wynford Road Bucyrus, Ohio 44820
For the County Appellees		- Rich & Gillis Law Group, LLC James R. Gorry 300 East Broad Street, Suite 300 Columbus, Ohio 43215

Entered May 19, 2009

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

This cause and matter is before the Board of Tax Appeals as a result of a notice of appeal filed by appellants Gary and Susan Harris (“property owners”). The property owners challenge a decision of the Crawford County Board of Revision (“BOR”) that determined the value, for ad valorem tax purposes, of certain real property for tax year 2006. We consider this matter on appellants’ notice of appeal and the statutory transcript (“S.T.”) certified by the Crawford County Auditor (“auditor”) pursuant to R.C. 5717.01. Although a hearing was convened before this board, the property owners did not attend and the appellees rested on the statutory transcript.

The subject property is located in the Bucyrus city schools taxing district and is identified in the auditor's records as parcel number 08-0018829.000. The property is improved with a one-story, 1,222-square-foot house that is used as a rental unit. S.T. at audiotape recording of BOR hearing, Ex. G. The value of the subject property, as originally assigned by the auditor, is \$51,060.

Through a complaint filed with the BOR, the property owners asserted that the subject's true value should be reduced to \$39,000. At the BOR hearing, Gary Harris tendered pictures of the subject and testified that four other properties with values of \$31,610 to \$37,700 are comparable to the subject. Id.; S.T. at Ex. I, L. 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 owners appealed to this board, asserting in their notice of appeal that the subject's total true value should be \$39,000.

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 appellants' 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, Harris presented the BOR with pictures of his property and testified as to several alleged comparable properties that he opined should

indicate the subject's value. S.T. at Ex. L. We find this evidence to be of little utility in determining the subject property's value. The purpose of the sales comparison approach, one of three commonly employed methods of appraising property, 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>

Based on the record, we are unable to determine whether the values cited by the property owners reflect recent sale prices or are simply the auditor's values.<sup>2</sup> If the properties were recently sold, we find no evidence to support the sales. With nothing more than a very limited list of raw data, we are left to speculate as to how common differences, e.g., location, size, quality of construction of improvements, nature of amenities, date of sale as opposed to tax lien date, etc., may affect a value determination.

A review of the record indicates the property owners provided no other evidence in support of their opinion of the subject's value. We find the evidence presented by the property owners before the BOR was not sufficiently reliable or probative to support the decrease sought.

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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 that "[a]ppraisal manuals and treatises can help in the valuation of real property."

<sup>2</sup> We note that evidence of the tax valuation of other properties compared with the property under consideration is not probative since those valuations may not be accurate. "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." *Alaburda v. Erie Cty. Bd. of Revision* (Mar.

Accordingly, we find appellants have failed to satisfy their 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:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 8,060	\$ 2,820
Building	<u>\$43,000</u>	<u>\$15,050</u>
Total	\$51,060	\$17,870

The Crawford 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. \_\_\_\_\_  
10, 2006), BTA No. 2004-R-832, unreported, quoting *Haydu v. Portage Cty. Bd. of Revision* (June 18, 1993), BTA No. 1992-H-576, unreported.