

**OHIO BOARD OF TAX APPEALS**

Board of Education of the )  
Licking Heights Local Schools, )  
 )  
Appellant, )  
 )  
vs. )  
 )  
Licking County Board of Revision, )  
Licking County Auditor, and )  
County Line Plaza, LLC, )  
 )  
Appellees. )

CASE NO. 2007-H-429  
(REAL PROPERTY TAX)  
DECISION AND ORDER

APPEARANCES:

- For the Appellant Board of Education - Rich & Gillis Law Group, LLC  
Mark H. Gillis  
300 East Broad Street, Suite 300  
Columbus, Ohio 43215
- For the County Appellees - Kenneth W. Oswalt  
Licking County Prosecuting Attorney  
Dennis Dove  
Assistant Prosecuting Attorney  
20 South Second Street  
Newark, Ohio 43055
- For the Appellee Property Owner - County Line Plaza, LLC  
4797 Britton Farms Drive  
Hilliard, Ohio 43026

Entered May 19, 2009

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

This cause and matter comes to be considered by the Board of Tax Appeals upon a notice of appeal filed by appellant Board of Education of the Licking Heights Local Schools (“BOE”) from a decision of appellee Licking County Board of Revision (“BOR”). In its decision, the BOR determined the taxable value of the subject property for tax year 2006.

The contested property, which is improved with a commercial shopping center, is located in the Licking Heights schools taxing district and is further identified as parcel numbers 063-142050-00.000 and 063-142050-00.001. Statutory transcript (“S.T.”) at Ex. C. The combined true value of the subject property, as originally assigned by the Licking County Auditor (“auditor”), is \$730,600.

The BOE filed a complaint with the BOR, asserting that the value for tax year 2006 should be increased to equal the property’s 2006 transfer price. At the hearing before the BOR, the BOE presented a copy of a real property conveyance fee statement and deed evidencing the transfer of the subject property on May 18, 2006 to County Line Plaza, LLC (“property owner”) for the amount of \$740,000. S.T. at Ex. A. Upon consideration of the evidence presented on behalf of the BOE, the BOR retained the auditor’s value, stating that the property had been revalued as of January 1, 2005 during the county’s six year reappraisal and the sale is 17 months past that date. S.T., Ex. D at 3.

The BOE now appeals the BOR’s determination of value, alleging the subject should be valued at \$740,000. For the reasons that follow, we find that the 2006 transfer price provides the best evidence of the subject property’s 2006 value.

This matter is submitted to the Board of Tax Appeals upon the notice of appeal and the statutory transcript certified to this board by the BOR. Although accorded an opportunity to present additional evidence at a hearing before this board,

the BOE stated that it would rely on the evidence found in the statutory transcript and the property owner and county appellees did not attend.<sup>1</sup>

We begin our review of this matter 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 that 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. Accordingly, this board must proceed to examine the available record and to determine value based on the evidence before it. *Coventry Towers, Inc. v. Strongsville* (1985), 18 Ohio St.3d 120; *Clark v. Glander* (1949), 151 Ohio St. 229. In doing so, we will determine the weight and credibility to be accorded to the evidence presented. *Cardinal Fed. S.& L. Assn. v. Cuyahoga Cty. Bd. of Revision* (1975), 44 Ohio St.2d 13.

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<sup>1</sup> The BOE elected to waive filing a written brief in support of its arguments, instead requesting that the board refer to the briefs filed in *Bd. of Edn. of the Heath City Schools v. Licking Cty. Bd. of Revision*, BTA No. 2007-A-427.

As we review the statutory transcript certified to this board by the BOR, we note the BOE presented copies of a real property conveyance fee statement and general warranty deed evidencing the transfer of the subject property on May 18, 2006 to County Line Plaza, LLC (“property owner”) for the amount of \$740,000. S.T. at Ex. A.

R.C. 5713.03 provides, in pertinent part, that:

“In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm’s length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor shall consider the sale price \*\*\* to be the true value for taxation purposes.”

As the party asserting that the valuation determined by the BOR should be increased, the BOE bears the burden of proving that the value it alleges should be the true value. The BOE met that burden by introducing documents establishing that the property sold on May 18, 2006 for the amount of \$740,000. *Cleveland Municipal School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 107 Ohio St. 3d 250, 252, 2005-Ohio-6434. It is well established that when property has been the subject of a recent arm’s-length sale between a willing buyer and a willing seller, the sale price of the property shall be the true value for taxation purposes.<sup>2</sup> *Dublin City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision*, 118 Ohio St.3d 45, 2008-Ohio-1588; *Rhodes v.*

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<sup>2</sup> We find the sale of the subject within six months after the tax lien date to be sufficiently recent for tax valuation purposes. See R.C. 5713.03; *New Winchester Gardens, Ltd. v. Franklin Cty. Bd. of Revision* (1997), 80 Ohio St.3d 36; *Hilliard City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1990), 53 Ohio St.3d 57; *Bd. of Edn. for Orange City School Dist. v. Cuyahoga Cty. Bd. of Revision* (May 17, 2002), BTA Nos. 2000-R-880, et seq., unreported; *Equity Strongsville II. v. Cuyahoga Cty. Bd. of Revision* (Feb. 2, 1996), BTA Nos. 1994-M-163, et seq., unreported.

*Hamilton Cty. Bd. of Revision*, 117 Ohio St.3d 532, 2008-Ohio-1595; *Cummins Property Servs., L.L.C. v. Franklin Cty. Bd. of Revision*, 117 Ohio St.3d 516, 2008-Ohio-1473; *Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 269, 271-272, 2005-Ohio-4979; *Zazworsky v. Licking Cty. Bd. of Revision* (1991), 61 Ohio St.3d 604; *Conalco v. Bd. of Revision* (1977), 50 Ohio St.2d 129, at the syllabus.

Although the presumption exists that the sale price is the best evidence of true value, that presumption may be rebutted where the sale is not an arm's-length sale. *Bd. of Edn. of the Cleveland Municipal School Dist.*, supra, citing *Lakeside Ave. Ltd. Partnership v. Cuyahoga Cty. Bd. of Revision* (1996), 75 Ohio St.3d 540, 544. A review of the record before us discloses no association or condition that would impact the validity of the sale. Thus, we find the transfer to be an arm's-length sale.

While the BOR declined to increase the auditor's value to the sale price for the 2006 tax year, the record before us does not allow us to make the same finding. We specifically find that the county's 2005 sexennial reappraisal value for the subject is not probative evidence that rebuts the value established by the 2006 arm's-length sale. *Reynoldsburg Bd. of Edn. v. Bd. of Revision of Licking Cty.* (1997), 78 Ohio St.3d 543. Accordingly, this board finds that the best evidence of value of the subject property is its May 2006 sale price.

Therefore, based upon the preponderance of competent and probative evidence before this board, the value of the subject parcels as of January 1, 2006 shall be:

Parcel number 063-142050-00.000

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
LAND	\$ 123,580	\$ 43,250
BUILDING	<u>24,420</u>	<u>8,550</u>
TOTAL	\$ 148,000	\$ 51,800

Parcel number 063-142050-00.001

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
LAND	\$ 266,400	\$ 93,240
BUILDING	<u>325,600</u>	<u>113,960</u>
TOTAL	\$ 592,000	\$ 207,200

The Auditor of Licking County is hereby ordered to cause the tax records to reflect the values determined herein for the subject real property and to assess the same in accordance therewith as provided by law.<sup>3</sup>

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<sup>3</sup> Rounded values are derived from the proportions utilized by the auditor.