

OHIO BOARD OF TAX APPEALS

Carl D. Thomas,)
)
 Appellant,) (CASE NO. 2007-M-684
) (REAL PROPERTY TAX)
 vs.)
) DECISION AND ORDER
)
 Lorain County Board of Revision and)
 the Lorain County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Carl D. Thomas, pro se
2235 East Erie
Lorain, Ohio 44052

For the County - Dennis Will
Appellees - Lorain County Prosecuting Attorney
John G. Morrisson
Assistant Prosecuting Attorney
225 Court Street, 3rd Floor
Elyria, Ohio 44035

Entered May 12, 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 August 6, 2007. Appellant challenges the decision, mailed July 10, 2007, of the Lorain County Board of Revision (“BOR”).

The subject property is located in the Lorain City School taxing district of Lorain County, Ohio, and further identified as parcel no. 03-00-049-101-028.

The Lorain County Auditor found the true and taxable values of the subject property for tax year 2006 to be as follows:

Parcel No. 03-00-049-101-028

	True Value	Taxable Value
Land	\$ 204,000	\$ 71,400
Building	\$ 131,100	\$ 45,890
Total	\$ 335,100	\$ 117,290

Upon consideration of the complaint filed by appellant, the BOR decreased the values of the subject property in the following manner:

Parcel No. 03-00-049-101-028

	True Value	Taxable Value
Land	\$ 171,400	\$ 59,900
Building	\$ 124,700	\$ 43,650
Total	\$ 296,100	\$ 103,550

The appellant remains dissatisfied with the assessed value of his property. Through the notice of appeal, appellant has alleged that the correct values for the subject property for tax year 2006 are as follows:

Parcel No. 03-00-049-101-028

	True Value	Taxable Value
Total	\$ 265,000	\$ 92,750

The matter was submitted to the Board of Tax Appeals pursuant to R.C. 5717.01 upon the notice of appeal, the statutory transcript certified by the Lorain County Auditor, as secretary of the BOR, and the testimony adduced at the

hearing before this board. Appearing before this board was Mr. Carl D. Thomas, appellant. The county appellees' representative waived appearance prior to hearing.

The subject property is a Lake Erie-shoreline lot, improved with a three-bedroom, one and one-half bath home, described as a "century" home. The appellant purchased the home from his father in 1967. Much of the work done to the home was done by either the appellant's father or himself. Since 1996, however, the property has not been the subject of any major improvements. Digital Recording Hearing Record.

Appellant was dissatisfied with the increase in value on his home since 1996. According to his calculations, after the reduction granted by the BOR, the property's value for 2006 was 94 percent higher than its value for 1996. This percentage increase, appellant argues, is significantly higher than neighboring properties. Mr. Thomas provided two examples, a home directly to his east, which was completely remodeled after purchase in 1997, which suffered only a 32 percent increase, and the home directly across the street, a home in excellent condition, the value of which had been reduced by 17.5 percent since 1996. *Id.*

Mr. Thomas also disagreed with the manner in which the Lorain County Auditor valued lakefront property. According to Mr. Thomas, lakefront property was valued in accordance with lake frontage. However, his property is very narrow. Given the current street and lakefront setbacks, Mr. Thomas does not believe his property is buildable. Therefore, Mr. Thomas believes that his land value

should take into consideration the depth of his property. As an example of the discrepancy in value, Mr. Thomas provided a picture of parcels located in Lorain but not on the lake. These lots, according to Mr. Thomas, all 100 feet wide by 600 feet deep and containing 1.4 acres, currently have lower land values than his property. Id. Appellant's Ex. 3.

Mr. Thomas also believes the value of his property should be reduced because of his location. The adjacent property, separated from the subject property by only a foot, is, as depicted by pictures presented by Mr. Thomas, in deteriorated condition. The windows and wood trim are rotted, and the grounds are completely overgrown. Appellant's Ex. 1. Mr. Thomas described the efforts both he and other neighbors have taken to correct the situation, but, despite the efforts, the property remains in a wasted condition. Because of the deleterious condition of the neighboring property, Mr. Thomas believes the value of his home should be lowered.

Finally, Mr. Thomas described his neighborhood as a neighborhood in decline. As an example, he provided testimony concerning a number of sales in the area he was aware of. 2625 East Erie Avenue, a property he discussed with the BOR, is a four-bedroom, one-bath home which had been remodeled. Mr. Thomas had been informed that the property had recently (as of the hearing date) transferred through a land-contract transaction for \$240,000. 1075 East Erie, also discussed with the BOR, but for which Mr. Thomas had little additional information, sold in

2006 for \$180,000. The property is larger than his property, but, again according to Mr. Thomas, its interior may not have been updated.

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 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.

Having noted the appropriate standard of review, we now proceed to determine the taxable value of the subject property. We first turn to the Ohio Revised Code for guidance. R.C. 5713.01(B) reads in part:

“The auditor shall assess all the real estate situated in the county at its taxable value [and] *** shall view and appraise or cause to be viewed and appraised at its true value in money, each lot or parcel of real estate ***.”

In determining what constitutes “true value in money,” the Supreme Court has held that the best evidence of a property’s fair market value or “true value in money” for tax purposes is the amount for which the property would sell on the open market between willing parties. *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410; *In Re Estate of Sears* (1961), 172 Ohio St. 443.

In the absence of data from a recent sale of a subject property, or concurrent with such data in some cases, Ohio Adm. Code 5703-25-07 provides that “true value in money” may be arrived at by considering any or all of the three recognized approaches to value: (1) the market data approach, in which recent sales of comparable properties are weighed; (2) the income approach, in which income attributed to a property is capitalized; and (3) the cost approach, which adds the depreciated cost of the improvements to the land to the value of the land itself.

There has been no recent sale of the subject. Mr. Thomas has attempted to prove the value of his property in a number of ways. However, Mr. Thomas’ analysis falls short of the standard by which this board must determine value. First, Mr. Thomas challenges the manner in which the Lorain County Auditor values lakefront property. However, Mr. Thomas has provided no evidence of lakefront property sales near the tax lien date. His complaint lies in what he believes to be unequal assessments. However, we have previously found such reliance upon taxable values assigned to other properties unpersuasive. See *Benit v. Delaware Cty.*

Bd. of Revision (Mar. 18, 1994), BTA No. 1993-B-722, unreported; *Henry W. Haydu v. Portage Cty. Bd. of Revision* (June 18, 1993), BTA No. 1992-H-576, unreported. *Caron v. Hamilton Cty. Bd. of Revision* (Aug. 27, 1993), BTA No. 1992-B-879, unreported. 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.”).

Next, Mr. Thomas points to what he believes are excessive increases in valuation from 1996 to 2006. Again, this is not proof upon which this board may change value. Home prices have increased significantly in the 10 years identified by Mr. Thomas. We are unable to reduce Mr. Thomas’ assessments because he believes his increase, on a percentage basis, is unreflective of the market when Mr. Thomas has not provided market evidence of his claim. Similarly, Mr. Thomas claims that the neighboring property reduces the value of his home, but has provided no evidence of that reduction in value.

Finally, Mr. Thomas has identified three recent sales in an effort to support his claim that his property is overvalued. Introduced at hearing was Appellant’s Exhibit 2, a circular describing a home at 2625 East Erie Avenue. This property is described as having four bedrooms, one bath, 1,656 square feet in size, and situated on a .41-acre lakefront parcel. According to Mr. Thomas, the property,

after having been marketed for over a year, sold in late 2008 through a land contract for \$230,000, 30 percent less than its assessment.

Mr. Thomas had no evidence of the sale. Even if he had evidence, we would note that this sale took place nearly three full years after the tax lien date. Moreover, while the comparable property has four bedrooms, according to the property record card included in the statutory transcript, Mr. Thomas' property is larger and has an additional bathroom. Therefore, we are unable to consider this sale competent evidence of the value of Mr. Thomas' home.

Mr. Thomas also presented evidence of two sales to the BOR, and the BOR reduced value for his home. However, the additional evidence presented through the board's hearing has not convinced this board that an additional reduction is warranted.

The burden is placed upon the proponent of change to provide sufficient competent and probative evidence that the value assessed by the BOR is not correct. Given the record before us, this board cannot find that the appellant carried his burden to prove that the value is other than that found by the BOR. Therefore the board finds that the true and taxable values of the subject property for 2006 are as follows:

Parcel No. 03-00-049-101-028

	True Value	Taxable Value
Land	\$ 171,400	\$ 59,900

Building	\$ 124,700	\$ 43,650
Total	\$ 296,100	\$ 103,550

It is the order of the Board of Tax Appeals that the Auditor of Lorain County list and assess the subject real property in conformity with this decision and order. It is further ordered that these values be carried forward in accordance with the law.

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