

**OHIO BOARD OF TAX APPEALS**

Robert L. Hudson, )  
 )  
 Appellant, ) (REAL PROPERTY TAX)  
 )  
 vs. ) DECISION AND ORDER  
 )  
 Wood County Board of Revision )  
 and the Wood County Auditor, )  
 )  
 Appellees. )

APPEARANCES:

For the Appellant - Robert L. Hudson, pro se  
229 Willowood Circle  
Bowling Green, Ohio 43402

For the County - Raymond Fischer  
Appellees Wood County Prosecuting Attorney  
James Gorry  
Special Prosecuting Attorney  
300 East Broad Street, Suite 300  
Columbus, Ohio 43215

Entered April 21, 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 on August 23, 2007 from a decision, mailed August 2, 2007, of the Wood County Board of Revision (“BOR”), appellee herein.

The subject property is located in the Bowling Green City West taxing district of Wood County, Ohio, and further identified as parcel no. B08-510-240308102000. The Wood County Auditor found the true and taxable values of the

subject property for tax year 2006 to be as follows:

B08-510-240308102000

	True Value	Taxable Value
Land	\$ 50,000	\$ 17,500
Building	\$ 192,300	\$ 67,310
Total	\$ 242,300	\$ 84,810

Upon consideration of the complaint filed by appellant, the BOR determined the true and taxable values of the subject property for the 2006 tax year were correct and that there should be no change in value.

Through his notice of appeal, appellant has alleged that the correct values for his property for tax year 2006 are as follows:

B08-510-240308102000

	True Value	Taxable Value
Land	\$ 40,000	\$ 14,000
Building	\$ 192,300	\$ 67,310
Total	\$ 232,300	\$ 81,310

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 Wood County Auditor as secretary of the BOR, and the testimony adduced at the hearing before this board. At this board's hearing, Mr. Robert L. Hudson appeared and provided testimony. No appearance was made by the representative of the county appellees.

The subject property is appellant's two-bedroom home constructed in 2004 on a zero-lot-line parcel located in Bowling Green. The subdivision in which the property is constructed, according to Mr. Hudson, is a mixture of both public and private streets. The difference between a public and a private street relates to services

provided by the city of Bowling Green. A public street receives trash pickup, street maintenance, and snow removal. A non-dedicated, or private, street does not receive such city services. Mr. Hudson's subdivision contains both public and private streets. Nevertheless, all of the homeowners within the subdivision's association share street maintenance costs, whether their home is located on a public street or on a private street. For purposes of his exhibits, Mr. Hudson identifies those homes located on a public street but assuming costs of a private street as located on "hybrid public" streets. H.R., Digital Recording.

Mr. Hudson claims that there is a measurable difference in the sales prices of neighboring homes and the difference can be tied to the type of street upon which the property is located. Mr. Hudson presented Appellant's Exhibit 1 to support his claim. Appellant's Exhibit 1 contains both a plat map of Appellant's subdivision and an adjoining subdivision. Exhibit 1 also contains a list of every sale which took place in these two subdivisions during the years 2006, 2007 and 2008, as well as a current listing. Mr. Hudson listed the address, date of sale, sales price, and auditor's assessment for each sale.

Mr. Hudson pointed out that for properties sold in 2006, the auditor's assessed values were either less than or within five percent of the actual sales prices. That was true whether the property was located on a private street, a hybrid private street, or a public street. After 2006, however, the auditor's values began to be greater than the sale amounts for those properties located on private streets or hybrid public streets. Mr. Hudson's listing reveals that the auditor's values more accurately

corresponded to the sales prices of homes located on public streets.

Mr. Hudson believes that the difference in value is directly related to the additional costs imposed upon residents living on the private and hybrid streets. Mr. Hudson claims that in 2006 he approached a representative of the auditor's mass appraisal company, on an informal basis, and was given a \$10,000 reduction to the value of his property, allocated against the land portion of his valuation on his second-half real property tax statement.<sup>1</sup> Mr. Hudson claims that this reduction was removed for 2007.<sup>2</sup> It was after the removal that he challenged value by filing a complaint with the BOR. His complaint was filed for tax year 2006.

At his hearing before the BOR, Mr. Hudson, who is a licensed appraiser, presented an appraisal which opined to a value for his property of \$228,000 as of January 1, 2007. Mr. Hudson compared his property to two recent sales of homes within his neighborhood. His comparable sale no. 1 was a three-bedroom, two-bath home located in the development directly behind his home. Comparable sale no. 2 was a sale of a three-bedroom, two-bathroom home, without a basement, located within his subdivision. Both properties sold in 2006. Comparable no. 1 received full city services. Comparable no. 2 received services similar to the services received by the subject property. Mr. Hudson allocated \$5,000 to account for the difference in services. His comparables indicated a value for his property of \$228,000. Mr.

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<sup>1</sup> The BOR's hearing record supports Mr. Hudson's claim that his value was lowered and then raised. The auditor indicated that the mass appraisal firm's employee was no longer working for the county because the employee was changing real property tax values without any direction from the auditor or the BOR. S.T., Hearing Transcript.

<sup>2</sup> Mr. Hudson's complaint was filed on March 27, 2007 and challenged the auditor's assessment for tax year 2006. We assume that when Mr. Hudson stated that the reduction received from the mass appraisal firm's

Hudson also testified that he purchased a vacant lot directly behind his home in the adjoining subdivision in 2004 for a price of \$39,900. S.T., Hudson Ex. 2.

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) provides, in part:

“The auditor shall assess all the real estate situated in the county at its taxable value \*\*\*. The auditor shall view and appraise \*\*\* 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

Footnote contd. \_\_\_\_\_  
appraiser was “removed for 2007,” Mr. Hudson meant that the reduction was removed on the tax bill he

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 5703-3-25 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. We also note that while an owner is entitled to provide an opinion of his property's worth, to be considered probative such an opinion must be supported with tangible evidence of a property's value. *Smith v. Padgett* (1987), 32 Ohio St.3d 344, 347. See, also, *Amsdell v. Cuyahoga Cty. Bd. of Revision* (1994), 69 Ohio St.3d 572; *Tokles & Son, Inc. v. Midwestern Indem. Co.* (1992), 65 Ohio St.3d 621. The weight to be accorded an owner's evidence is left to the sound discretion of this board. *Cardinal Fed. S. & L. Assn. v. Bd. of Revision* (1975), 44 Ohio St.2d 13, paragraphs two and three of the syllabus.

Mr. Hudson's claim is that his property is overvalued by \$10,000 and that overvaluation relates directly to the land portion of his assessment. We agree. We place greatest weight on the purchase by Mr. Hudson of the property adjacent to

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received in 2007. As taxes are paid in arrears, that bill would have sought payment for the 2006 tax year.

his in October 2004 for \$39,900.

We place no weight on Mr. Hudson's opinion of value presented through the appraisal submitted to the BOR, as the appraisal indicated that the opinion was presented as of January 1, 2007 and the valuation date under consideration is January 1, 2006. See *AP Hotels of Illinois, Inc. v. Franklin Cty. Bd. of Revision*, 118 Ohio St.3d 343, 2008-Ohio-2565. However, evidence included within that appraisal as well as other evidence within the record may be used by the board to reach an independent conclusion of value.

In that regard, we find that the record is sufficient for this board to conclude that Mr. Hudson's property is overvalued by \$10,000 and the value reduction should be allocated against the land portion of Mr. Hudson's assessment. As stated above, we place the greatest weight upon Mr. Hudson's purchase in October 2004. His listing of sales taking place in 2006 through 2008 has persuaded this board that the prices within the area have stagnated or slightly declined. Thus, the value paid for a comparable property in 2004, approximately 14 months prior to tax lien date, is the best evidence of the value of the land portion of Mr. Hudson's property.

Accordingly, this board finds by a preponderance of competent and probative evidence that the value of the subject property for 2006 is as follows:

B08-510-240308102000

	True Value	Taxable Value
Land	\$ 40,000	\$ 14,000
Building	\$ 192,300	\$ 67,310
Total	\$ 232,300	\$ 81,310

It is the order of the Board of Tax Appeals that the Auditor of Wood

County list and assess the subject real property in conformity with this decision and order. It is further ordered that this value be carried forward in accordance with the law.

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