

OHIO BOARD OF TAX APPEALS

Pamela P. Ladson,)
)
 Appellant,)
)
 vs.)
)
 Montgomery County Board of Revision)
 and Montgomery County Auditor,)
)
 Appellees.)

CASE NO. 2007-T-618
(REAL PROPERTY TAX)
DECISION AND ORDER

APPEARANCES:

For the Appellants - Pamela P. Ladson, pro se
6632 Brandsview Court
Huber Hts., Ohio 45424-7301

For the County Appellees - Mathias H. Heck, Jr.
Montgomery County Prosecuting Attorney
Nolan Thomas
Assistant Prosecuting Attorney
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P.O. Box 972
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Entered January 27, 2009

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

Pamela P. Ladson appeals from a decision of the Montgomery County Board of Revision, in which the BOR determined the true value of permanent parcel number R72-09104-0034 to be \$47,650 for tax year 2006. Ms. Ladson asserts that the correct true value should be \$37,650.

The subject property consists of approximately 0.113 acres of land. The land is improved with a frame dwelling that is approximately 2,960 square feet in size. The building was erected in 1914 and is operated as a rental property.

Initially, we note that Ms. Ladson did not appear at the merit hearing scheduled before this board. Although in appearance, the county elected to present no additional evidence. In this regard, we remind the parties that our duty is to conduct a de novo review of the record and to “determine the value of the property.” R.C. 5717.03. 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.

For tax year 2006, the auditor valued the subject property at \$57,660. Ms. Ladson filed a complaint with the BOR, seeking a decrease in the subject property’s value to \$38,000 based upon a claimed decline in the neighborhood and a decrease in the value of neighboring properties. S.T. at Ex. A. At her hearing before the BOR, Ms. Ladson supported her claim that the neighborhood was in decline by testifying that there are several homes that are currently vacant, that several homes have been vandalized, that other vacant homes had to be torn down due to the vandalism, and that there is a “drug house” next to the subject property. S.T. at BOR hearing worksheet. To support the decrease in value she believed was caused by the neighborhood problems, Ms. Ladson presented the BOR with what appears to be a valuation report prepared by either a mortgage company or a bank. S.T. at Ex. A. This report indicates a \$38,000 value for the subject as of March 19, 2007 and relies upon the sale prices of three homes. Upon

review, the BOR voted to reduce the value of the subject property to \$47,650, a decrease of \$10,040 from the auditor's value.

We begin our review of this matter by noting that “[w]hen 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 or decrease from the value determined by the board of revision.” *Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision* (2001), 90 Ohio St.3d 564, at 566. In determining value, we will determine the weight and credibility to be accorded the evidence presented. *Cardinal Fed. S. & L. Assn. v. Cuyahoga Cty. Bd. of Revision* (1975), 44 Ohio St.2d 13.

It is not enough, however, to simply come forward with some evidence of value. Neither is it sufficient to grant the requested increase or decrease merely because no evidence is offered to challenge the claim. *W. Industries, Inc. v. Hamilton Cty. Bd. of Revision* (1960), 170 Ohio St. 340; *Hibschman v. Bd. of Tax Appeals* (1943), 142 Ohio St. 47. An appellant must present competent and probative evidence to make its case. *Columbus*, supra, at 566.

Both the Supreme Court of Ohio and this board have previously considered the impact of adverse conditions upon the true value of real property. In *Haydu v. Portage Cty. Bd. of Revision* (June 18, 1993), BTA No. 1992-H-576, unreported, we held the existence of a condition does not itself mandate a reduction in value of the real property. “A recitation of defects in a taxpayer’s property, without more, is not especially helpful in determining a (lower) valuation. It is also necessary to

establish the [diminution] in value caused by the defects, or some evidence of the value of the property as so diminished.” *Id.* at 7. It may be true that the property owner cannot avoid the cost of the needed repair; however, cost is not invariably equated with value. *Vogelgesang v. CECOS Internatl., Inc.* (1993), 85 Ohio App.3d 339 at 349, citing *Inmar Assoc., Inc. v. Borough of Carlstadt* (1988), 112 N.J. 593. Cf. *Throckmorton v. Hamilton Cty. Bd. of Revision* (1996), 75 Ohio St.3d 227 (holding that “[e]vidence of needed repairs, or the cost of needed repairs, while a factor in arriving at true value, will not alone prove true value. It is the decrease in true value that may result from the need for the repairs that is the important factor to be determined by the BTA.”). *Id.* at 228.

In the instant matter, Ms. Ladson has provided information concerning the existence of neighborhood problems, which may affect the value of real property. Nevertheless, while we empathize with Ms. Ladson, we are unable to find that she provided evidence that is sufficiently probative and persuasive to establish her requested decrease in the subject property’s value.

In reviewing the bank’s valuation report, we first observe that the report itself states that it is “not an appraisal.” S.T. at Ex. A. Next, we note that the valuation date of the report is March 19, 2007, over fifteen months after the 2006 tax lien date. There is no evidence before us upon which we may conclude that the value opined would be valid for tax lien date. *Freshwater v. Belmont Cty. Bd. of Revision* (1997), 80 Ohio St.3d 26, at 30 (BTA may reject an appraisal opining value on a date other than tax lien date where there is no proof that the valuation between the two dates is constant

and uniform); *Olmsted Falls Village Assn. v. Cuyahoga Cty. Bd. of Revision* (1996), 75 Ohio St.3d 552, at 555 (“the BTA must base its decision on an opinion of true value that expresses a value for the property as of tax lien date of the year in question”). See, also, *AP Hotels of Illinois, Inc. v. Franklin Cty. Bd. of Revision*, 118 Ohio St.3d 343, 2008-Ohio-2565, at ¶11. Ultimately, we are unable to accept an ambiguity, such as that created by the effective date of the report, that leaves it to this board to speculate as to the precise nature of the economic conditions impacting the subject property as of tax lien date.

Additionally, the author of the report did not appear before this board. The assumptions made by an appraiser and the method the appraiser uses in arriving at an opinion of value are factors that we must weigh in determining the credibility of the opinion. *Freshwater*, supra, at 30 (“An expert’s opinion of value in a tax valuation case is of little help to the trier of fact if the expert does not explain the basis for the opinion.”). Where, as here, the author of the opinion is absent, we are unable to conclude that the opinion is reliable. *Specca v. Montgomery Cty. Bd. of Revision* (Mar. 25, 2008), BTA No. 2006-K-2144, unreported; *Bd. of Edn. of the Northridge Local Schools v. Montgomery Cty. Bd. of Revision* (Jan. 28, 2005), BTA No. 2004-B-35, unreported, settled on appeal, 106 Ohio St.3d 1492, 2005-Ohio-4216; *Fisher v. Morrow Cty. Bd. of Revision* (Feb. 15, 2008), BTA No. 2006-V-717, unreported; *Tieche v. Erie Cty. Bd. of Revision* (Mar. 31, 2006), BTA No. 2005-T-717, unreported; *Giallombardo*

v. Montgomery Cty. Bd. of Revision (May 7, 2004), BTA No. 2003-V-875, unreported.¹

This is especially important in the matter before us, as we are unable to either identify or review the basis for the adjustments made to the sale prices of the three properties used in the report. We do not know what characteristics were deemed significant, nor can we determine from the record whether the adjustments are reasonable and consistent with the market. Neither can we verify that the three sales are indeed comparable to the subject property.

We are charged with determining a value for Ms. Ladson's property. In the absence of competent and probative evidence that conclusively establishes the diminutive effect the neighborhood and condition have upon the value of the subject property, we are compelled to find that Ms. Ladson has not met her burden of persuasion. *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.

The remaining evidence of value before us is that contained in the statutory transcript, including the property record card and the BOR's hearing worksheet. We note that the transcript also contains a list of eighteen sales evidently used by the BOR in reaching its determination of value. S.T. at Ex. B. We find that the

¹ See, also, *Evenson v. Erie Cty. Bd. of Revision* (Apr. 12, 2002), BTA No. 2001-V-770, unreported, at 3: "Generally, documentary evidence which is received at hearing needs to be identified and authenticated by a witness who testifies under oath and is subject to examination by both the opposing party and an attorney examiner of this board. Furthermore, that witness' qualifications and credibility may be assessed during such examination. However, in this case, such safeguards are noticeably absent since the individuals who prepared the appraisals did not appear at hearing. Given our inability to assess the appraisers' qualifications and credibility and the failure to have the documents authenticated, we find that each report constitutes hearsay upon which this board may not rely in reaching a decision."

statutory transcript provides sufficient information to explain the action taken by the BOR. Therefore, upon review of the evidence as a whole, we conclude that the value of the subject property is \$47,650. *Columbus*, supra. The Board of Tax Appeals further finds the true and taxable values of the subject property are as follows for tax year 2006:

Parcel R72-09104-0034	TRUE VALUE	TAXABLE VALUE
LAND	\$ 7,610	\$2,660
BUILDINGS	<u>\$40,040</u>	<u>\$14,010</u>
TOTAL	\$47,650	\$16,670

We order the Auditor of Montgomery County to list and assess the subject property in conformity with this decision and order and to carry forward the determined values in accordance with law.

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