

OHIO BOARD OF TAX APPEALS

Charles Townsend,)	CASE NO. 2007-V-165
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Franklin County Board of Revision,)	
Franklin County Auditor, and the Board)	
of Education of the Columbus City)	
Schools District,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant	-	Charles Townsend, pro se 13022 Heatherstone Circle Pickerington, Ohio 43147
For the County Appellees	-	Ron O'Brien Franklin County Prosecuting Attorney William Stehle Assistant Prosecuting Attorney 373 South High Street, 20 th Floor Columbus, Ohio 43215
For the Appellee Bd. of Edn.	-	Rich, Crites & Dittmer, LLC Allison J. Crites 300 East Broad Street, Suite 300 Columbus, Ohio 43215

Entered: January 27, 2009

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

This cause and matter came on to be considered by the Board of Tax Appeals upon a notice of appeal filed herein by the above-named appellant from a decision of the Franklin County Board of Revision. In said decision, the board of revision determined the taxable value of the subject property for tax year 2005.

This matter was submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript (“S.T.”) certified to this board by the county board of revision, and the record of the hearing (“H.R.”) before this board. Appellant Mr. Townsend did not appear at hearing before this board.

The subject real property, a four-unit apartment building, is located in the city of Columbus-Columbus City School District taxing district, Franklin County, Ohio. The 2005 value of the parcel, #010-80609, as determined by the auditor was as follows:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
LAND	\$ 12,000	\$4,200
BLDG	\$108,000	\$37,800
TOTAL	\$120,000	\$42,000

After a hearing before the BOR, the subject’s 2005 value was increased to:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
LAND	\$ 12,000	\$4,200
BLDG	\$148,000	\$51,800
TOTAL	\$160,000	\$56,000

Before the BOR, the BOE presented a copy of a deed and conveyance fee statement evidencing that the subject had been purchased by Veda Burgan on February 10, 2005 for \$160,000. S.T. at 9(A and B). Ms. Burgan did not appear at the hearing before the BOR. S.T. at 14. The BOR was unsuccessful in mailing its February 15, 2007 decision letter. Id. at 10. The BOR reissued its decision on March

9, 2007, mailing it to appellant Charles Townsend.¹ Id. at 11.

In his notice of appeal, Mr. Townsend contends that the board of revision has overvalued the parcel in question by relying upon the sale of the subject in February 2005 as an indicator of its value. Mr. Townsend contends that his purchase of the property on January 29, 2007 for \$52,000 is the best evidence of value.

At the outset, we note the decisions in *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336, 337, and *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, 495, wherein the Supreme Court held that an appealing party has the burden of coming forward with evidence in support of the value which it has claimed. Once competent and probative evidence of true value has been presented, the opposing parties then have a corresponding burden of providing evidence which rebuts appellant's evidence of value. Id.; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St.3d 318, 319.

As we consider the valuation question before us, we acknowledge that 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.”

¹The notice of appeal filed by appellant as well as an exhibit identified at hearing before this board discloses that Mr. Townsend acquired the property on January 29, 2007. Ex. A. It appears that after the BOR's February 15, 2007 decision letter was returned to the BOR unclaimed, although the address is not visible on the envelope in the statutory transcript, the BOR reissued its decision.

The Ohio Supreme Court has consistently held that the best evidence of true value of real property is an actual, recent, arm's-length sale. Specifically, in *Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 269, 2005-Ohio-4979, the Supreme Court held "that when the property has been the subject of a recent arm's-length sale between a willing seller and a willing buyer, the sale price of the property shall be 'the true value for taxation purposes.' R.C. 5713.03." *Berea*, at 5. See, also, *Zazworsky v. Licking Cty. Bd. of Revision* (1991), 61 Ohio St.3d 604; *Hilliard City School Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1990), 53 Ohio St.3d 57; *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. An arm's-length sale is characterized by these elements: it is voluntary, i.e., without compulsion or duress; it generally takes place in an open market; and the parties act in their own self-interest." *Walters v. Knox County Bd. of Revision* (1988), 47 Ohio St.3d 23.

It is also well established that when a sale occurs, there is a rebuttable presumption the sale price reflects the true value of the property in question. Consequently, a rebuttable presumption extends to all of the requirements which characterize true value. It is then the burden of the party who claims that a sale is other than arm's length to counter such presumption. However, the burden of persuasion does not change, as it is still on the appealing party to establish, through the presentation of competent and probative evidence, a different value than that found by the board of revision. See *Cincinnati Bd. of Edn. v. Hamilton Cty. Bd. of Revision*

(1997), 78 Ohio St.3d 325; *Bd. of Edn. of the Columbus City School District v. Franklin Cty. Bd. of Revision* (Nov. 28, 1997), BTA No. 1996-S-93, unreported.

At hearing before this board, counsel for the BOE presented the subject property's transfer history which evidences Ms. Burgan's purchase of the property on February 10, 2005, as well as four subsequent transfers. Ex. A.

Choosing the sale nearest the tax lien date is the appropriate course of action when there are multiple sales. In *Bd. of Edn. of Worthington City Schools v. Franklin Cty. Bd. of Revision* (Sept. 28, 2007), BTA No. 2005-K-1564, unreported, at 14-15, this board stated as follows:

“Finally, we are compelled to acknowledge the exhibit presented by appellant at this board's hearing suggesting that the property again transferred in December 2005. *** At this board's hearing, appellant's counsel indicated that '[w]e submit this evidence not asserting a value of \$810,000, but to show that the property was indeed worth \$725,000 on January 1st of 2004.' H.R. at 10-11. Typically, where a property is the subject of multiple transfers, greatest reliance is placed upon the one which occurs nearest the effective tax lien date, an outcome which we again reach today. See, e.g., *Dublin-Sawmill Properties v. Franklin Cty. Bd. of Revision* (1993), 67 Ohio St.3d 575; *Williams v. Columbiana Cty. Bd. of Revision* (Apr. 4, 1997), BTA No. 1996-M-644, unreported, at [4] (sic) ('[T]his Board has, in the past, held that when a property transfers more than once during the same triennial period, the sale closest to the tax lien date is considered the better indication of value as of the tax lien date. *** This rule applies regardless if the subsequent sale is for a significantly higher amount as is the case here.').” (Footnote omitted.)

We find that the deed and conveyance fee statement presented by the BOE evidence a sale, and such evidence is competent and probative evidence upon which a BOR may change value. *Reynoldsburg Bd. of Edn. v. Licking Cty. Bd. of Revision* (1997), 78 Ohio St.3d 543; *Cincinnati Bd. of Edn.*, *supra*; *Berea City School*

Dist. Bd. of Edn., supra. Accordingly, we find that the price paid by Ms. Burgan for the subject property represents the true value of the property for tax year 2005.

Mr. Townsend, who had the burden of proof, failed to demonstrate how the BOR erred in choosing the 2005 sale date closest to the tax lien date over his 2007 sale date, when both sales were arm's length. *Crow, Mentor Exempted Village Bd. of Edn.*, and *Springfield Local Bd. of Edn.*, supra.

The value of the subject for tax year 2005 shall be that which the BOR determined, as based upon the sale price of the subject, specifically:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
LAND	\$ 12,000	\$4,200
BLDG	\$148,000	\$51,800
TOTAL	\$160,000	\$56,000

It is the decision and order of the Board of Tax Appeals that the Franklin County Auditor shall list and assess the subject property in conformity with this decision.