

OHIO BOARD OF TAX APPEALS

Charles Lett,)
)
 Appellant,) (REAL PROPERTY TAX)
)
 vs.) DECISION AND ORDER
)
 Lucas County Board of Revision)
 and the Lucas County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Charles Lett, pro se
1321 Vance
Toledo, OH 43607

For the County Appellees - Julia R. Bates
Lucas County Prosecuting Attorney
Carol Bruggeman
Assistant Prosecuting Attorney
One Government Center
Suite 500
Toledo, OH 43604

Entered January 27, 2009

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

This matter is considered by the Board of Tax Appeals upon a notice of appeal filed on behalf of appellant Charles Lett from a decision of the Lucas County Board of Revision (“BOR”), appellee herein.

The subject real property is located in the Toledo City Schools taxing district, Lucas County, and further identified as parcel number 07-41927 on the Lucas County Auditor’s (“auditor”) records. The parcel is improved with two residential structures. Statutory Transcript (“S.T.”) at unmarked property record cards.

The auditor found the true and taxable value of the subject property for the tax year 2006 to be as follows:

07-41927	TRUE VALUE	TAXABLE VALUE
LAND	\$ 4,100	\$ 1,440
BUILDING	<u>\$27,600</u>	<u>\$ 9,660</u>
TOTAL	\$31,700	\$11,100

We note some confusion that exists in the transcript certified by the BOR. The DTE certification fails to include the subject parcel number, includes only assessed valuations, and fails to identify any of the documents and/or exhibits pertinent to the instant appeal.

Mr. Lett's complaint lists the subject parcel, 07-41927, otherwise known as 1321 Vance Street, which is improved with a dwelling. S.T. at unmarked exhibit, complaint. At hearing before the BOR, it became evident that there are two dwellings located on the subject property. The second dwelling is located at 1320 Blum Street, and is situated behind 1321 Vance Street. Id. at unmarked property record cards, unmarked BOR hearing transcript. Our review of the property record cards reveals that each dwelling is listed separately on separate property record cards; however, both dwellings share the same parcel number, 07-41927. Id. In reviewing the property record cards, it appears the land value of the parcel is assigned to the 1321 Vance Street address, whereas the property record card for the 1320 Blum Street address only carries a value for the residential improvement. The separate property record cards are valued by the auditor as follows for 2005:

07-41927 (1321 Vance)	TRUE VALUE	TAXABLE VALUE
LAND	\$ 4,100	\$ 1,440
BUILDING	<u>\$20,900</u>	<u>\$ 7,320</u>
TOTAL	\$25,000	\$11,100

07-41927 (1320 Blum)	TRUE VALUE	TAXABLE VALUE
LAND	\$ 0	\$ 0
BUILDING	<u>\$6,700</u>	<u>\$ 2,350</u>
TOTAL	\$6,700	\$ 2,350

After a hearing upon a complaint filed by Mr. Lett requesting the property value be decreased from \$31,700 to \$29,900,¹ the BOR decreased the subject's value at 1321 Vance Street, and left the valuation of 1320 Blum unchanged, resulting in a new value of \$29,900:

07-41927 (1321 Vance)	TRUE VALUE	TAXABLE VALUE
LAND	\$ 4,100	\$ 1,440
BUILDING	<u>\$19,100</u>	<u>\$ 6,680</u>
TOTAL	\$23,200	\$ 8,120

07-41927 (1320 Blum)	TRUE VALUE	TAXABLE VALUE
LAND	\$ 0	\$ 0
BUILDING	<u>\$6,700</u>	<u>\$ 2,350</u>
TOTAL	\$6,700	\$ 2,350

TOTAL BOTH HOMES	\$29,900	\$10,470
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In the notice of appeal filed with this board, appellant now asks that the subject property's value be further lowered to \$22,000.

Accordingly, this matter is submitted to the Board of Tax Appeals pursuant to R.C. 5717.01 upon the notice of appeal and the statutory transcript certified by the auditor. The county appellees waived their opportunity to present evidence at hearing before this board and Mr. Lett did not appear.

We begin our review of the evidence by noting that a party who asserts a right to an increase or a decrease in the value of real property has the burden to

¹ Mr. Lett amended his value request before the BOR from \$65,000 to \$29,900. S.T., at unmarked complaint.

prove its 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.

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 adduced in contradiction to the claim. *W. Industries, Inc. v. Hamilton Cty. Bd. of Revision* (1960), 170 Ohio St. 340. In short, there is a burden of persuasion that rests with the appellant to convince this board that the appellant is entitled to the value which it seeks. *Cincinnati School Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (1997), 78 Ohio St.3d 325. Once the appellant presents competent and probative evidence of value, other parties asserting a different value then have the corresponding burden of providing evidence that rebuts appellant's evidence of value. *Springfield Local Bd. of Edn.*, supra. Accordingly, this board will proceed to examine the available record and to determine value based upon the evidence before it. *Coventry Towers, Inc. v. Strongsville* (1985), 18 Ohio St.3d 120; *Clark v. Glander* (1949), 151 Ohio St. 229. In so doing, 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.

It is well established that the proper test for determining the true value of real property for taxation purposes is a recent arm's-length sale of the property. *First Union Real Estate Equity & Mtg. Investments v. Cuyahoga Cty. Bd. of Revision* (1990), 53 Ohio St.3d 236; *Conalco v. Bd. of Revision* (1977), 50 Ohio St.2d 129. In the absence of a recent arm's-length sale, as in the case before us, an appraisal or other relevant evidence is necessary to determine the true value of real property. *First Union Real Estate Equity & Mtg. Investments*, supra; *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410, 412. Under such circumstances, true value in money can be calculated by applying any of three alternative methods provided for in Ohio Adm. Code 5703-25-07: 1) the market data approach, where the value of property is estimated through a comparison of the subject to recent sales of comparable properties in the market area, 2) the income approach, which capitalizes the net income attributable to the property, and 3) the cost approach, which depreciates the improvements to the land and then adds them to the land value.

Before the BOR, Mr. Lett testified that the subject's total value should be returned to \$29,900 and explained that the auditor's increase was due to the addition of a toilet in the basement of one of the homes. Mr. Lett testified that the addition of a toilet should not equate to a "bathroom."² Mr. Lett further explained about the condition of the property and the needed repairs, and briefly mentioned the auditor's appraised values of other homes in the area. S.T. at unmarked BOR transcript.

² In reviewing the property record cards, each home is listed as having one full bath. 1321 Vance Street lists that the property is additionally improved with an additional fixture. S.T. at unmarked property record cards.

It appears that the BOR reduced the value of 1321 Vance Street to account for the home's condition. See handwritten notes on property record card: "2006 BOR Adj CND 5/07."

In reviewing the record before us, the BOR reduced the value of the parcel to the value sought by Mr. Lett in his amended complaint. On appeal, Mr. Lett has failed to provide any evidence to support the further reduction he seeks. This board does find that the reduction granted by the BOR is minimally supported in the record before this board.

Therefore, upon consideration of the existing record and the applicable law, the Board of Tax Appeals finds from the preponderance of the evidence that the value of the subject property, consistent with the decision of the BOR, as of January 1, 2006 was:

07-41927 (1321 Vance)	TRUE VALUE	TAXABLE VALUE
LAND	\$ 4,100	\$ 1,440
BUILDING	<u>\$19,100</u>	<u>\$ 6,680</u>
TOTAL	\$23,200	\$ 8,120
07-41927 (1320 Blum)	TRUE VALUE	TAXABLE VALUE
LAND	\$ 0	\$ 0
BUILDING	\$6,700	\$ 2,350
TOTAL	\$6,700	\$ 2,350
TOTAL BOTH HOMES	\$29,900	\$10,470

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

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