

OHIO BOARD OF TAX APPEALS

Scott and Deborah Everhardt,)
)
 Appellants,) (REAL PROPERTY TAX)
)
 vs.) DECISION AND ORDER
)
 Ottawa County Board of Revision and the)
 Ottawa County Auditor,)
)
 Appellees.)

APPEARANCES:

- For the Appellants - Scott Everhardt, pro se
22459 W. Bittersweet Ln.
Curtice, Ohio 43412

- For the Appellees - Rich & Gillis Law Group, LLC
James R. Gorry
300 East Broad Street
Suite 300
Columbus, Ohio 43215-3704

Entered April 14, 2009

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

The Board of Tax Appeals considers this matter pursuant to a notice of appeal filed by appellants Scott and Deborah Everhardt. Appellants appeal from a decision of the Ottawa County Board of Revision (“BOR”), in which the BOR determined the true value of the subject property to be \$248,870, unchanged from the amount previously determined by the Ottawa County Auditor (“auditor”) for tax year 2006. Appellants claim that the correct true value of the property should be \$232,000.

This matter is considered upon the notice of appeal, the statutory transcript (“S.T.”) certified by the auditor, and the evidence and testimony presented at hearing before this board (“H.R.”).

The subject property is identified in the auditor’s records as parcel number 001-00093-00441-005 and is located in the Allen Township taxing district. S.T. at DTE Form 3. The property is comprised of approximately 1.38 acres of land and is improved with a pond and one residential structure, erected in 1991. The two-story house is approximately 2,052 square feet in size. Id. at 3.

Before the BOR as well as this board, Mr. Everhardt offered documentary evidence in support of his contention of value.¹ In support, Mr. Everhardt provided property record cards which set forth the sales prices and the auditor’s appraised values of four other properties. S.T. at 2. Additionally, Mr. Everhardt provided copies of newspaper articles discussing home values in the regional area. Id.

Turning to the comparable sales offered before the BOR, the first property sold in 2004 for \$208,000; the second sold in 2005 for \$170,000; the third sold twice in 2003 for \$280,000 and \$245,000; and the fourth sold in 2004 for \$274,500. Id. Within the documentation of these reported sales, Mr. Everhardt notes the auditor’s assessed valuations of each of these homes. Id.

¹ The audiotape of the hearing conducted before the BOR is blank.

Before this board Mr. Everhardt appeared and provided evidence concerning the auditor's appraised values of neighboring properties, newspaper articles, and information from the county's records of the sale of a neighboring home located at 22209 West Bittersweet that sold for \$220,000 in November 2007. H.R. at 15-25, Exs. 1 and 2. The county appellees also appeared at this board's hearing, offering the testimony and appraisal report of Richard H. Hoffman, MAI, a state-certified appraiser. Mr. Hoffman opined to a value of \$249,000 for the subject property. H.R. at 38; Ex. A.

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.

To support his claimed value, Mr. Everhardt primarily relies upon differences in the auditor's appraised value of the subject and its neighboring properties.² Ohio courts have held that showing that two or more parcels of property have different values, without more, does not demonstrate that the subject property is not being properly valued, nor does the reliance upon the values assigned to other properties present competent evidence of the subject property's value. *WJK Investments, Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29; *Sherman v. Cuyahoga Cty. Bd. of Revision* (Mar. 17, 2000), Cuyahoga App. No. 75971, unreported. Similarly, in *Benit v. Delaware Cty. Bd. of Revision* (Mar. 18, 1994), BTA No. 1993-B-722, unreported, we concluded that taxable values reflected on other properties provide little insight into the value of the property at issue:

“The appellant has attempted to show a lower value than that assessed by the BOR. However, appellant's presentation of evidence fails to carry the burden of proof as to what the property is actually worth. The appellant has submitted a comparative analysis of the tax valuation of certain neighboring land. However, we have often stated that such information is not particularly helpful. ‘Tax valuations are not sales, and a comparative analysis thereof is always subject to the objection that the tax valuations of the compared properties are not themselves market value.’ *Henry W. Haydu v. Portage Cty. Bd. of Revision* (June 18, 1993), B.T.A. Case No. 92-H-576, unreported.” Id. at 6.

² The four unadjusted comparables submitted by Mr. Everhart to the BOR range between \$160,000 to \$274,500 and are generally supportive of Mr. Hoffman's opinion of value. Without more evidence, we are unable to say that appellant's four unadjusted comparables overcome the meaningful adjustments and opinion of Mr. Hoffman.

Next, Mr. Everhardt provided the information of the neighboring property that was the subject of a November 2007 sale for \$220,000. Mr. Everhardt testified that the neighboring property's former owners attempted to sell the property in a variety of ways and ultimately listed the property with a realtor. H.R. at 23-25.

The burden is upon the appellants to submit sufficient probative, competent evidence to support their claim for a reduction in value. *Zindle v. Summit Cty. Bd. of Revision* (1989), 44 Ohio St.3d 202; *R.R.Z. Assoc. v. Cuyahoga Cty. Bd. of Revision* (1988), 38 Ohio St.3d 198. A party who asserts a right to a decrease in the value of real property has the burden of proving his right to the value asserted. *Cleveland Bd. of Edn.*, supra.

Turning to the county appellees' evidence of value, we find the report of Mr. Hoffman to be supportive of the auditor's original valuation of \$248,870. In his sales comparison approach, Mr. Hoffman considered the sales of four properties in the area which created an unadjusted range of value from \$217,000 to \$267,500.³ After making adjustments, Mr. Hoffman opined to a value of \$249,000 for the subject property on January 1, 2006. H.R. at 38, Ex. A at 3. We find the decision of the BOR to leave the \$248,870 value as originally determined by the auditor unchanged to be supported by the record before us.

³ Mr. Hoffman's comparable sale #3 is the same sale identified by Mr. Everhardt (22209 West Bittersweet) that sold in November of 2007 for \$220,000. Ex. 2. Similar to the adjustments made to all four of his comparable sales, Mr. Hoffman made appropriate adjustments to the sale price of comparable three to account for the following differences as compared to the subject property: the date of sale, size of lot, square feet of living space, size of basement, fireplaces, and the existence of a pond on the subject property. Ex. A at 10.

Upon review, we find that Mr. Everhardt has not presented sufficient competent or probative evidence of value. As that burden has not been satisfied, we are unable to find that he has demonstrated his right to his asserted value. *Cincinnati School Bd. of Edn.*, supra; *Dublin Bd. of Edn. v. Franklin Cty. Bd. of Revision* (1997), 80 Ohio St.3d 450, at 454.

The Board of Tax Appeals therefore finds the true and taxable values of the subject property to be as follows for January 1, 2006:

Parcel	TRUE VALUE	TAXABLE VALUE
001-00093-00441-005		
LAND	\$ 55,870	\$19,550
BUILDINGS	<u>\$193,000</u>	<u>\$67,550</u>
TOTAL	\$248,870	\$87,100

We order the Auditor of Ottawa 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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