

OHIO BOARD OF TAX APPEALS

Daniel R. O’Neil,)
) CASE NO. 97-G-1206
)
 Appellant,) (REAL PROPERTY VALUE)
)
 vs.)
)
 Franklin County Board of Revision,) DECISION AND ORDER
 Franklin County Auditor, and Columbus)
 City Schools District Board of Education,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Daniel R. O’Neil, *Pro se*
3151 N. High Street
Columbus, Ohio 43202

For the County - Ron O’Brien
Appellees Franklin County Prosecuting
Attorney
By: Matthew H. Chafin
Assistant Prosecuting
Attorney
373 South High Street, 20th Floor
Columbus, Ohio 43215

For the Appellee - Mark Gillis
Columbus City Schools Teaford, Rich, Crites & Wesp
District BOE 20 East Broad Street
Columbus, Ohio 43215

Entered March 17, 2000

Mr. Johnson, Ms. Jackson and Mr. Manoranjan concur.

This cause and matter is before the Board of Tax Appeals upon a notice of appeal filed herein by the above-named appellant. The appellant appeals from a decision of the Franklin County Board of Revision (“BOR”). In its decision, the BOR determined the taxable value of the subject real property for the tax year 1996.

The subject property is located in the City of Columbus – Columbus City School District taxing district and appears on the Auditor’s records as permanent parcel number 010-87410. The land is improved with a residential 4-unit apartment building, consisting of 2-bedroom townhouse apartments. The subject property is located at 609–611–613–615 Acton Road, Columbus, Ohio.

The Franklin County Auditor determined the true value and taxable value of the subject property, as of January 1, 1996, to be as follows:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 18,000	\$ 6,300
Buildings	<u>98,900</u>	<u>34,610</u>
Total	\$116,900	\$40,910

Upon review of the complaint filed by the Board of Education and the corresponding counter-complaint filed by Mr. O’Neil, the BOR determined the true and taxable values of the subject property to be as follows:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 18,000	\$ 6,300
Buildings	<u>147,000</u>	<u>51,450</u>
Total	\$165,000	\$57,750

Whereas the appellant asserts that the true and taxable values of the subject property should be as follows:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 20,000	\$ 7,000
Buildings	<u>100,000</u>	<u>35,000</u>
Total	\$120,000	\$42,000

This matter is now submitted upon the notice of appeal, the statutory transcript certified to the Board of Tax Appeals by the BOR, and the record of the evidentiary hearing held before this Board.

The record establishes that Daniel O’Neil purchased the subject property, a four-unit apartment complex, for \$165,000 on November 21, 1996. He testified that the property was purchased in a 1031 exchange (“like-kind exchange”). (R. 7) Mr. O’Neil explained that in September of 1996, he sold a property consisting of two units located at 2428 and 2430 Summit Street for \$65,000. He had purchased the property approximately twenty years earlier for \$24,000. (R. 16) In order to defer capital gains taxes from the sale of the Summit Street property, Mr. O’Neil testified that he needed to invest in a property which would qualify for a like-kind exchange. Therefore, he claims he was operating under a “time constraint” to purchase the subject property.

Mr. O’Neil stated that subsequent to selling the Summit Street property, he approached the owners of the subject property for a possible purchase. He had previously purchased two other properties from the owners in a like-kind exchange.¹ The subject property was not currently on the market. Mr. O’Neil is a broker/realtor and his

¹ This case is a companion case to B.T.A. No. 97-G-1204 and B.T.A. No. 97-G-1205, issued this date, wherein Mr. O’Neil purchased two properties in a like-kind exchange from the same charitable foundation. The issues and facts presented herein are essentially the same as those presented in the two aforementioned cases.

company does property management. He had been managing the subject property for the owners, the charitable foundation, for approximately 1 year. (R. 18)

Mr. O’Neil claims that the price he paid for the property was inflated because that was how it was carried on the seller’s books. However, he realized after working the numbers from the proceeds he had available for the exchange, that it was possible to complete the transaction at the asking price, and also an opportunity to do something good for the charitable foundation.

The issue this Board must resolve is whether an arm's-length sale of the subject property took place, as between Mr. O’Neil and the charitable foundation. For the reasons expressed in *Daniel R. O’Neil v. Franklin Cty. Bd. of Revision*, B.T.A. No. 97-G-1204, decided this date, we find that the transaction in question was an arms-length sale.

In the present case, in support of the value he asserts, Mr. O’Neil submitted four exhibits. Exhibits 1A through 1T are twenty property record cards for properties located near the subject property. Each of the property record cards lists a fair market value of \$116,900. Exhibit 2 consists of 6 pages and contains information on eight sales of properties that Mr. O’Neil used as comparables. Exhibit 3 is an excerpt from the Institute of Real Estate Management’s income and expense analysis for apartments nationwide. Exhibit 4 is a document entitled “Age Group Reports” from the same publication and contains median income and operating costs for garden type buildings in Columbus, Ohio. The age groups reflected are 1965 – 1977 and 1978 to date.²

Upon cross-examination, Mr. O’Neil acknowledged that the property record cards in Exhibits 1A through 1T, reflecting a value of \$116,900, were dated February 1, 1993. The tax lien date at issue is January 1, 1996. He also acknowledged that the

² Exhibits 3 and 4 are identical to appellant’s Exhibits 1 and 2 in the prior referenced companion cases. Only the valuation computations are different. (R. 14)

property values might have been adjusted for 1996, just as the subject's was adjusted subsequent to the sale. (R. 21) Prior to the sale at issue, the subject property was also valued at \$116,900. Regarding Exhibit 2, Mr. O'Neil stated that he had no independent knowledge whether his comparable sales were arms-length transactions. He assumed that if they were in the "MLS" book, and therefore on the open market, then the sales were arms-length. (R. 23) Further, he did not present any detailed testimony about the comparability of the properties to the subject. Regarding Exhibits 3 and 4, there is insufficient evidence in the record to establish that the subject property's valuation should comport with the figures therein. Exhibit 3 is for apartments nationwide. Mr. O'Neil provided no credible or persuasive testimony or other evidence tying the nationwide analysis to the subject property. The same holds true for Exhibit 4. Mr. O'Neil did not supply sufficient information regarding the subject property to enable this Board to determine whether the statistics in Exhibits 3 and 4 would be probative of value determination.

At the BOR hearing, Mr. O'Neil testified that the property at issue was acquired through a like-kind exchange. He paid for an appraisal of the property through his lender. Although he did not have a copy of the appraisal at the BOR hearing, Mr. O'Neil told the BOR members that he would supply a copy subsequent to the hearing. No appraisal report was ever supplied. Likewise, no appraisal report was supplied to this Board, however, Mr. O'Neil testified before this Board, that for the lender's purposes, the appraisal would probably support the purchase price. (R. 19)

Based upon the foregoing, the Board finds that the purchase of the subject property on November 21, 1996 was an arm's-length transaction. In addition, Mr. O'Neil has failed to provide sufficient competent and/or probative evidence which successfully rebuts the presumption that the sale price is the best indication of true value. Accordingly, this Board finds the sale price involved herein is the most reliable indication of the value of the subject property as of January 1, 1996.

Thus, the Board of Tax Appeals determines that the true value and the taxable value of the subject property for 1996 to be as follows:

	<u>TRUE VALUE</u>	<u>TAXABLE VALUE</u>
Land	\$ 18,000	\$ 6,300
Buildings	<u>147,000</u>	<u>51,450</u>
Total	\$165,000	\$57,750

Accordingly, the Franklin County Auditor is hereby ordered to list and assess the subject property in conformity with this Board's decision and order. ohiosearchkeybta