

OHIO BOARD OF TAX APPEALS

New Richmond Exempted Village)	CASE NOS. 98-M-623
School District Board of Education,)	98-M-624
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Clermont County Board of)	
Revision, the Clermont County Auditor)	
and Lin Nick Farm, Inc.,)	
)	
Appellees.)	

APPEARANCES:

For the Appellant-	David C. DiMuzio Wood & Lamping 2500 Cincinnati Commerce Ctr. 600 Vine Street Cincinnati, Ohio 45202
For the County Appellees -	Donald W. White Clermont County Prosecuting Attorney By: Allan Lee Edwards Assistant Prosecuting Attorney Clermont County Courthouse 270 Main Street Batavia, Ohio 45103
For the Property Owner- Lin Nick Farm, Inc.	John Woliver, Esq. 204 North Street Batavia, Ohio 45103

Entered December 10, 1999

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

These causes and matters come to be considered by the Board of Tax Appeals upon notices of appeal filed by appellant from decisions, dated June 23, 1998, of the Clermont County Board of Revision, appellee herein.

The subject property is located in the Monroe Township and Ohio Township taxing districts of Clermont County, Ohio, and further identified as Parcel Nos. 22-22-10E-001 and 24-27-5G-067.

The Clermont County Auditor found the true and taxable value of the subject property for tax year 1997 to be as follows:

Parcel No. 22-26-10E-001
78.26 Acres

	True Value	Taxable Value
Land	\$ 444,700	\$ 155,650
Building	\$ 945,380	\$ 330,900
Total	\$1,390,080	\$ 486,550

Parcel No. 24-27-05G-067
53.73 Acres

	True Value	Taxable Value
Land	\$ 261,000	\$ 91,400
Building	\$ 0	\$ 0
Total	\$ 261,000	\$ 91,400

Upon consideration of the complaints filed by the appellant, the Clermont County Board of Revision (“BOR”) determined the true and taxable value of the subject property for tax year 1997 to be as follows:

Parcel No. 22-26-10E-001

	True Value	Taxable Value
Land	\$ 151,960	\$ 53,190
Building	\$ 723,780	\$ 253,320
Total	\$ 875,740	\$ 306,510

Parcel No. 24-27-05G-067

	True Value	Taxable Value
Land	\$ 94,030	\$ 32,910
Building	\$ 231,000	\$ 80,850
Total	\$ 325,030	\$ 113,760

In its notices of appeal, the appellant has alleged that the correct value for the parcels for tax year 1997 to be as follows:

Parcel No. 22-26-10E-001

	True Value	Taxable Value
Land	\$ 444,700	\$ 155,645
Building	\$ 945,380	\$ 330,883
Total	\$1,390,080	\$ 486,528

Parcel No. 24-27-05G-067

	True Value	Taxable Value
Land	\$ 379,000	\$ 132,650
Building	\$ 231,000	\$ 80,850
Total	\$ 610,000	\$ 213,500

The matter was submitted to the Board of Tax Appeals pursuant to R.C. 5717.01 upon the notice of appeal, the statutory transcript certified by the Clermont County Auditor as the secretary for the BOR, the testimony adduced at the hearing before this Board and the legal argument provided by counsel.

The subject property consists of two parcels of land containing approximately 133 acres located in Clermont County. The property is improved with an 18 hole, privately owned golf course open to the public. The property is also improved with newly constructed clubhouse and maintenance buildings built in 1995 and 1996, and an older farmhouse, existing on the property when purchased by the current owner.

We begin our review of this matter by noting that a party who asserts a right to an increase or decrease in the value of real property has the burden to prove the 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 City 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. Once competent and probative evidence of true value has been presented by an appellant, other parties asserting a different value then have a corresponding burden to provide sufficient evidence to rebut the appellant's evidence. *Springfield Local Bd. of Edn., supra; Mentor Exempted Village Bd. of Edn., supra.*

The appellant in this matter is the New Richmond Exempted Village Board of Education (“BOE”). In order to meet its burden, the BOE presented the testimony of Mark L. Middleton. Mr. Middleton holds the designations of “MAI” from the Appraisal Institute and “SRA” from the Society of Real Estate Appraisers. Mr. Middleton has appraised golf courses in the past, generally in the Dayton, Ohio area where his appraisal practice is located.

The summary appraisal prepared by Mr. Middleton considered all three accepted methods of valuing property, the cost approach, the income approach and the sales comparison approach. After consideration of all three methods, and placing equal weight upon all three approaches, it was Mr. Middleton’s opinion that the property was worth \$2,200,000 as of tax lien date.

In concluding to a value under the cost approach, the appraiser first found four sales of vacant land in the Clermont County vicinity. All four sales took place in 1998. While the subject property consisted of approximately 133 acres, the comparables were all sales of smaller sites. The comparable closest in size to the subject (at 114.34 acres), garnered a sales price of \$2,186 per acre. The smaller sites generally garnered higher sales prices.

All comparable sales ranged from prices of \$2,186 per acre (the largest of the comparables) to \$2,900 per acre (tracts of 60-70 acres). Based upon the four comparables, the appraiser selected a value for the subject of \$2,500 per acre, and arrived at a total value for the land, as unimproved, at \$335,000.

To value the improvements, the appraiser turned to Marshall Valuation Service. Concluding that the course improvements were lower end “Class II” improvements, the appraiser estimated a value per hole of \$55,500, for an estimated cost, new, of \$999,000 for 18 holes. The appraiser then added \$250,000 to account for other site improvements, including concrete parking areas, landscaping, cart paths, miscellaneous buildings, service walks, sprinkler system and the farmhouse. The clubhouse and maintenance building were valued separately at a replacement cost of \$469,745, after depreciation. The appraiser considered it appropriate to make a 10 per cent depreciation deduction, but only upon the costs attributed to the clubhouse and maintenance buildings. The golf course improvements were not considered in the depreciation calculation. When questioned on this point, the appraiser testified that golf course improvements such as grading do not depreciate and the “contributory” site improvements were included after depreciation was deducted.

To a total of \$1,718,745, the appraiser added value for furniture, fixtures and equipment of \$50,000 and entrepreneurial profit of 15 per cent. That value plus value attributed to land as vacant equaled the appraiser’s conclusion under the cost approach of \$2,370,000.

Mr. Middleton next considered value under the income approach. Utilizing income and expense information obtained from the property as well as a review of the market, Mr. Middleton estimated that income should be based upon 25,000 rounds of golf per year at \$22.00 per round, which would generate \$550,000 from golf fees.

Mr. Middleton also took into account income components from the pro shop (\$175,000) as well as food and beverage sales (\$150,000) and added these figures to the potential income from golf fees. In this manner, the appraiser arrived at a total gross income estimate of \$875,000.

From his estimated income, Mr. Middleton deducted estimated expenses of \$600,250. These expenses included insurance, management and maintenance fees, and

expenses to operate both the pro shop and the food and beverage services. Mr. Middleton also included a figure for miscellaneous expenses and allowed a reserve for replacement. His estimated net operating income for the course's first year of operation was \$274,750.

Mr. Middleton then presented a discounted cash flow analysis for a five-year period. In his analysis, the appraiser increased both income and expense at a rate of two per cent per year. Applying a 14 per cent discount rate to obtain the present value of the cash flow over a five-year period and a capitalization rate of 13 per cent, Mr. Middleton concluded to a value under the income approach of \$2,140,000.

Finally, Mr. Middleton derived value for the subject property under the sales comparison method. Under this method, Mr. Middleton researched Clermont County and surrounding areas to find sales of golf courses he believed comparable to the subject. Because of the unique nature of the subject, Mr. Middleton reviewed sales from a wide geographical area. Mr. Middleton's comparables were located as far north as the Columbus, Ohio vicinity and into Kentucky as well.

All of the appraiser's comparable sales were of privately held golf courses open to public play.¹ Three of the comparables were described as championship caliber courses. The subject's 133 acres was smaller than all of the comparables. Only one, Bent Tree in Delaware County, was even close to the same size. The appraiser deemed it proper to make downward adjustments of between 30 and 40 per cent to account for dissimilarities between the subject and the comparables.

The appraiser indicated that he considered comparables one (Deer Run Country Club), two (Sugar Ridge Golf Course) and five (Brookshire Golf Course) to be the most comparable to the subject. Comparables three (Bent Tree) and four (Traditions Golf Club) represented the upper end of the appraiser's value range. Based upon comparables one, two and five, the appraiser selected a value of \$135,000 per hole. The appraiser also

¹ One comparable, Deer Run Country Club in Hamilton County, did have 35 private members at the time of sale.

selected a greens fee multiplier unit of comparison but he was able to obtain the relevant information on only one comparable property. His testimony indicated that Comparable Two, Sugar Ridge Golf Course in Lawrenceburg, Indiana, was purchased on a stabilized projected 12.5 per cent overall rate and an 8 per cent net income multiplier. The appraiser indicated that he made a 5 per cent upward adjustment to the sale price of \$155,556 per hole to account for date of sale (July 1994 compared to tax lien date of January, 1997) and a 20 per cent downward adjustment for design and quality (the course, constructed in 1992 and 1993 was designed by a well known golf course designer and played 7,000 yards as opposed to the subject's 6,400 yard length). However, the appraiser made a 37.5 per cent deduction to the greens fee multiplier, reducing the 8 per cent income multiplier attributed to the comparable to 5 per cent for comparison purposes. Under the greens fee multiplier method of comparison, Mr. Middleton concluded to a value for the subject of \$2,750,000. However, it was the appraiser's opinion that the "direct" sales comparison approach was entitled to greater weight, and therefore opined a value under this method of \$2,450,000.

Harmonizing the values derived under the three appraisal methods, Mr. Middleton opined a final value for the subject property as of the tax lien date of \$2,200,000.

The BOR did not appear at the hearing before this Board. Therefore, any support for its value appears only in the statutory transcript, which this Board has carefully reviewed. The property record cards included in the statutory transcript provide some relevant information. It is evident that the Auditor originally placed value for all the golf course improvements on Parcel No. 22-26-10E-001. Because of the complaint filed by the property owner, an appraiser for the Auditor, Mr. Ed Rinck, understood that 6 of the 18 holes were situated on Parcel No. 24-27-05G-067. It was also Mr. Rinck's opinion that the course improvements were properly valued at \$70,000 per hole before an obsolescence deduction of 40 per cent to account for the ability of the course to be used only seasonally.

While the BOR did not appear at the Board's hearing, the property owner did. To rebut the testimony and evidence provided by the BOE, the property owner presented the testimony of Mr. Robert Taylor, Sr., its president and sole shareholder. Mr. Taylor recited the events leading up to the construction of the golf course and the steps taken in order to bring the course from farmland to its present form. Mr. Taylor, a local businessman in the Clermont County area, originally built three holes at his home. After that experience, Mr. Taylor began to seek vacant land upon which to build a course. In 1992, the subject property was owned by a woman who had recently entered a nursing home. Offering more than the asking price, Mr. Taylor was the highest of three bidders. The property required reconfiguration to meet Mr. Taylor's needs, including regrading the open spaces to create fairways and constructing lakes from wetlands. Mr. Taylor constructed the golf course itself without the aid of a golf course designer, engineer or architect. The actual grading and construction of tee boxes, sand traps and greens was done by Mr. Taylor's own work crew or independent contractors hired by him to complete specific jobs. The clubhouse and maintenance buildings were also constructed by Mr. Taylor; however, compliance with building codes in the area, required Mr. Taylor to obtain the services of engineers and architects for these structures. Mr. Taylor testified that, in addition to the land purchase of \$235,000, he paid an additional \$1,780,000 to complete the project. However, his expenses included the purchase of some personal property. For example, the lawn mowers and golf carts alone cost approximately \$400,000. Since the completion of this project, Mr. Taylor has been involved in four more golf course projects.

The property owner also brought forth evidence of two recent sales of golf courses in the Clermont County vicinity. Mr. Middleton, appellant's witness, discounted the sales. Mr. Middleton testified that his research indicated that the Ivy Hills Golf Club sale included the purchase of obligations to members of the golf club in addition to the payment price. The BOE likened such a sale to the sale of a property burdened with encumbrances. Mr. Middleton discounted the sale of Royal Oaks Golf Club, a property in

Clermont County, as a valid comparable because his research revealed that the property was sold just prior to foreclosure.

The issue in an appeal from a board of revision is the true value of real property. As we have been instructed to do by the Ohio Supreme Court, this Board will proceed to make an independent determination of true value predicated upon the preponderance of the evidence. *Coventry Towers, Inc. v. Strongsville* (1985), 18 Ohio St. 3d 120, 122. In so doing, this Board 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, 19-20.

R.C. 5713.01 reads in part:

“The auditor shall assess all the real estate situated in the county *** at its true value in money ***.”

In interpreting the meaning of “true value” as set forth above, the Supreme Court has determined that the best evidence of a property's fair market value or “true value in money” for tax purposes is that amount for which the property would sell on the open market between willing parties. *State, ex rel. Park Investment Co. v. Board of Tax Appeals* (1964), 175 Ohio St. 410; *In re Estate of Sears* (1961), 172 Ohio St. 443; *Conalco v. Board of Revision* (1977), 50 Ohio St. 2d 129. Absent a recent sale, true value in money can be derived by applying any of three alternative methods provided for in Ohio Adm. Code 5705-3-03: 1) the market data approach, which compares recent sales of comparable properties; 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.

In the present appeal, both the BOE and the property owner have presented some evidence of the subject property's true value in money. The BOE has presented the testimony of Mr. Middleton. While we find Mr. Middleton's testimony credible, we are not required to accept the testimony of any appraiser. We must note that the appraiser's

opinion is always dependent upon the quality of the comparables found in the marketplace as well as the appraiser's ability to make meaningful adjustments. *Cyclops Corp. v. Richland Cty. Bd. of Revision* (May 30, 1985), B.T.A. Nos. 82-A-566, *et seq.*, unreported.

In this regard, we must review the underlying evidence offered by the appraiser and consider whether such underlying evidence supports his opinion of value. We first consider the cost approach, which we find to be a valid indicator of value for a property in the early years of its existence. See *Dinner Bell Meats, Inc. v. Cuyahoga Cty. Bd. of Revision* (1984) 12 Ohio St.3d 270, fn. 1. Our review does not support the conclusions drawn by Mr. Middleton from his supporting evidence. We first note that his opinion of the value of the land as if unimproved is not supported by his comparables. All four comparables were for tracts significantly smaller than the subject. No comparable property had similar topography. This Board also questions Mr. Middleton's decision to completely disregard the sale of the subject in 1994, especially since Mr. Middleton did consider sales of golf course properties sold in that year.

As to the value of the golf course itself, both the BOE's appraiser and the property owner offered pictures of the golf course improvements. The pictures do not represent what we believe to be a Class II golf course. Marshall Valuation Service's description of Class I and Class II courses are as follows:

“Class I. Minimal quality, simply developed, budget course on open natural or flat terrain, few bunkers, small tees and greens ***.

“Class II. Simply designed course on relatively flat terrain, natural rough, few bunkers, small built-up tees and greens, some small trees ***.”

While we acknowledge the difficulty of categorizing a property from a few pictures, the rationality of categorizing the subject as a Class I course is evidenced by the property owner's testimony of the cost of construction. Clearly, the actual costs presented

more accurately reflect a Class I course than a Class II course.² Once the quality of the construction estimate is reduced, other costs appear to fall into line with actual costs.³ Moreover, the appraiser added value to the cost estimate for items such as concrete parking, landscaping, cart paths miscellaneous buildings, service walks, sprinkler system and house. Marshall Swift indicated that many of such charges are included in its cost per hole. Because Mr. Middleton provided only a summary amount, this Board is unable to extract the costs for certain items not included in the per hole costs.

We do not find the values derived under Mr. Middleton's income approach and sales comparison approach are entitled to any weight. Mr. Middleton, under cross-examination, revealed that the prices obtained from the market were current prices and not those charged in 1997. Mr. Taylor was also familiar with many of the market comparables. His testimony concerning price changes during 1997 cause this Board to deem Mr. Middleton's income estimates unreliable without some further corroboration, which is not reflected in the record. The lack of market corroboration is also problematic with other variables used in Mr. Middleton's income capitalization approach. The record is devoid of market support for the appraiser's pro shop and food estimates, his discount rate of 14 per cent and his capitalization rate of 13 per cent.

With regard to the sales comparison approach, Mr. Middleton himself discounted the relevance of market sales three and four. We agree. The golf courses sold were both described as championship courses. The sale of comparable three, located near Columbus, Ohio, included a driving range and several practice tees. The sale of comparable four, located in Kentucky, included a significant amount of land over and above the golf course's needs.

² Mr. Taylor testified that he was currently finishing a 20-hole golf course at a cost of \$600,000. This figure is significantly closer to a Class I course than the cost of constructing a Class II course.

³ Because Mr. Taylor owns most of his own equipment and uses many of his own employees, it is difficult to gauge the exact costs incurred. We find it most probative that Mr. Taylor borrowed \$2,000,000 to complete the project in total.

Nor does this Board find the other three comparables particularly helpful in valuing the subject. The subjective adjustments for design and quality indicate to the Board that the appraiser was not able to find a truly comparable property in the marketplace. Indeed, the descriptions of the comparable sales all indicate courses of better design and quality. None of the parties would dispute that the subject was not of the caliber of any of the comparables. Even the adjustments made to the greens fee multiplier cannot be reconciled with the adjustments made under the direct sales approach. Therefore we find the cost approach is the most accurate measure of the subject's worth.

While the property owner seeks to retain the values determined by the BOR, we do not find its evidence supports such a value. The BOR's values are supported by little verifiable evidence. For example, Mr. Rinck's "seasonal obsolescence" deduction was not supported by independent evidence.⁴ Nothing in the record before this Board supports Mr. Rinck's 40 per cent seasonal obsolescence figure.⁵ As the BOR did not present any further evidence, we are unable to find the values presently assessed are entitled to weight.

Moreover, Mr. Taylor's own testimony indicates that his costs in the property were greater than the values determined by the BOR. The property owner has presented no evidence to suggest that comparable golf courses in the area have devalued since he committed the funds to the project. We do note that the evidence suggests that new golf courses have entered the market in the last few years. However, Mr. Taylor's testimony reveals that the subject has been able to raise greens fees every year since its opening. Therefore, we reject any argument regarding depreciating values.

⁴ We do note that the property record card, introduced by the property owner, of Royal Oaks Golf Course, another Clermont County course, indicates that the mass appraisal firm also allowed a high obsolescence deduction. That course, however, was valued at \$50,000 per hole and credited with a seasonal obsolescence deduction of 30 per cent compared to the subject's value of \$70,000 per hole and seasonal obsolescence deduction of 40 per cent.

⁵ At one point in the BOR hearing, Mr. Rinck indicated that the depreciation deduction was attributable to high tension lines crossing a fairway and the condition of the golf course. At another point, Mr. Rinck indicated that the depreciation deduction was attributable to the inability to use the course for a full twelve months of the year.

Therefore, the Board of Tax Appeals finds that the cost approach, with the following adjustments, most accurately reflect value. The raw land is most accurately valued at \$2186 per acre (the same value as the comparable with the greatest acreage) or \$290,700. The clubhouse and maintenance buildings are valued in line with the appraiser's opinion of value of \$469,745. The golf course improvements are valued at a Class I value \$40,000 per hole, or \$720,000. The Board recognizes that certain items, such as the concrete parking lot, grouped together in "contributory value" exist outside the golf course improvements. However, as the majority expenses, *i.e.*, cart paths, irrigation systems, etc. are included in the per hole cost, we find that the \$250,000 is an improper inclusion in the estimate under the cost method. As we have no breakdown of the \$250,000 figure, we are unable to identify a cost for the concrete parking lot separate from the other included items.

An entrepreneurial profit of 15 per cent, or \$178,460 will be added. We agree with the appellant's witness that entrepreneurial profit is that amount which an investor requires to bring the project online. Inclusion of a such a figure in the cost method of calculating value is as basic as the inclusion of other direct and indirect costs. *The Appraisal of Real Estate, 11th Ed.* (Appraisal Institute, 1996). While Mr. Taylor testified that he could envision no immediate profit from his investment, the inclusion of such a figure in the cost method of valuation does not reflect any guaranteed return. "[E]ntrepreneurship represents a legitimate cost of development and should be included in the estimate of development costs." *Id.*, at p. 348.

Adding the values together, this Board concludes that the subject property is most accurately valued at \$1,658,900. That amount is in line with Mr. Taylor's testimony concerning the amount he invested in the project. Therefore, the Board of Tax Appeals finds and determines, from a preponderance of competent and credible evidence, that the value of the subject property was as of January 1, 1997:

Parcel No. 22-26-10E-001

	True Value	Taxable Value
Land	\$ 179,580	\$ 62,850
Building	\$1,128,200	\$394,870
Total	\$1,307,780	\$457,720

Parcel No. 24-27-05G-067

	True Value	Taxable Value
Land	\$ 111,120	\$ 38,890
Building	\$ 240,000	\$ 84,000
Total	\$ 351,120	\$122,890

It is the order of the Board of Tax Appeals that the Auditor of Clermont County list and assess the subject real property in conformity with this decision and order. It is further ordered that this value be carried forward in accordance with the law.