

# OHIO BOARD OF TAX APPEALS

Grant and Denise Parsons, )  
 )  
 Appellants, ) REAL PROPERTY TAX  
 )  
 vs. ) DECISION AND ORDER  
 )  
 Franklin County Board of Revision, )  
 Franklin County Auditor and the )  
 Columbus City Schools District Board )  
 Of Education, )  
 )  
 Appellees. )

## APPEARANCES:

For the Appellants - Grant Parsons, *pro se*  
8209 Station House Road  
Centerville, Ohio 45458

For the County Appellees - Ron O'Brien  
Franklin County Prosecuting Attorney  
By: Matthew Chafin  
Assistant Prosecuting Attorney  
373 South High Street, 20<sup>th</sup> Floor  
Columbus, Ohio 43215

For the Appellee - James R. Gorry  
Columbus City Schools Teaford, Rich, Crites & Wesp  
District Board of 20 East Broad Street  
Education Columbus, Ohio 43215

Entered February 11, 2000

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

This cause and matter is before the Board of Tax Appeals as a result of a notice of appeal filed on June 21, 1999 by appellants, Grant and Denise Parsons. Appellants appeal a decision of the Franklin County Board of Revision ("BOR"), mailed on June 8, 1999, in which that tribunal determined that the subject property had a total taxable value of \$98,350 as of tax lien date January 1, 1998.

The subject property is located in the City of Columbus, Columbus City School District taxing district and appears in the records of the Franklin County Auditor (“Auditor”) as parcel number 010-7150. The property is improved with a multi-family apartment building.<sup>1</sup> The Auditor initially assessed the subject property in conformity with the following true and taxable values:

	<u>TRUE VALUE</u>		<u>TAXABLE VALUE</u>
Land	\$ 63,000	Land	\$22,260
Building	<u>142,400</u>	Building	<u>49,840</u>
Total	\$205,400	Total	\$72,100

Thereafter, the BOR increased the values of the subject property as follows:

	<u>TRUE VALUE</u>		<u>TAXABLE VALUE</u>
Land	\$ 63,000	Land	\$22,260
Building	<u>217,400</u>	Building	<u>76,090</u>
Total	\$280,400	Total	\$98,350

In their notice of appeal,<sup>2</sup> appellants claimed that the true and taxable values of the subject property should be reduced as follows:

	<u>TRUE VALUE</u>		<u>TAXABLE VALUE</u>
Land	\$ 63,578	Land	\$22,260
Building	<u>187,422</u>	Building	<u>65,590</u>
Total	\$251,000	Total	\$87,850

This matter is now considered by this Board based upon appellants’ notice of appeal, the statutory transcript certified by the Auditor pursuant to R.C. 5717.01 and

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<sup>1</sup> The property record card for the subject property indicates that it is improved with seven apartment units, while appellant testified that it has only six units. At the hearing before the BOR, appellant explained that the seventh unit is located in the basement of the property and has not been leased since 1992.

<sup>2</sup> At hearing, appellants modified the true value claimed for the subject property, reducing it to \$152,650.

the evidence presented at a hearing conducted by this Board. At hearing, the only witnesses to testify were Grant Parsons and Charles Knight, a construction contractor.

In an appeal filed pursuant to R.C. 5717.01, there exists no presumption that the values found by a county board of revision are correct. *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. Nevertheless, an appellant bears the burden of presenting evidence in support of the value which it has asserted. *Western Industries, Inc. v. Hamilton Cty. Bd. of Revision* (1960), 170 Ohio St. 340, 342. Once competent and probative evidence of value has been presented, then the other parties to the appeal have the burden of providing evidence which rebuts that of the appellant. *Id.*; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St.3d 318, 319. While this Board may ultimately find that a property has the same value as that previously determined by a county board of revision, either because the evidence supports such a conclusion or the appellant has failed to prove otherwise, see, e.g., *Westlake Med. Investors, L.P. v. Cuyahoga Cty. Bd. of Revision* (1996), 74 Ohio St.3d 547, 549; *National Church Residence v. Licking Cty. Bd. of Revision* (1995), 73 Ohio St.3d 397, such a conclusion will be the result of an independent, *de novo*, determination which is predicated upon the preponderance of the evidence.

R.C. 5713.03 imposes the following requirements upon county auditors and, in turn, tribunals who review the correctness of assessments initially made by those officials:

“The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of each separate tract, lot, or

parcel of real property and of buildings, structures, and improvements located thereon \*\*\*. 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 of such tract, lot, or parcel to be the true value for taxation purposes. \*\*\*"

In paragraph one of its syllabus in *Conalco v. Bd. of Revision* (1977), 50 Ohio St.2d 129, the Supreme Court acknowledged the reliability of a "qualifying" sale for *ad valorem* tax purposes:

"The best evidence of the 'true value in money' of real property is an actual, recent sale of the property in an arm's-length transaction. (*State, ex rel. Park Investment Co., v. Bd. of Tax Appeals*, 175 Ohio St. 410, approved and followed.)"

In the present case, appellants purchased the subject property on April 23, 1998 for \$281,000. Nothing within the record of this case suggests that this was other than an "actual, recent sale of the property in an arm's-length transaction." However, appellants assert that the purchase price is an overstatement of the subject's value for two primary reasons: (1) the improvements to the property did not satisfy municipal building codes, thereby requiring appellants to expend funds to meet those requirements; and (2) along with the real property purchased, appellant also acquired various items of personal property.

With respect to the first of the above-stated justifications, Parsons testified that on or about June 23, 1999, appellants received an emergency order from the Department of Trade and Development of the City of Columbus advising them that the size of the subject's windows violated minimum requirements imposed for emergency

egress mandated by municipal building code. Parsons further testified, along with Knight who described the work that was performed on the property, that appellants were required to expend considerable sums to bring the property into compliance. He therefore advocates a dollar-for-dollar reduction in the value assigned the property by the BOR.

We reject appellants' claim in this regard for several reasons. First, the alterations which were made to the subject property as a result of the aforementioned order took place approximately eighteen months after the tax lien date in issue and fourteen months after appellants purchased the property. While appellants insist that the condition existed at the time of their purchase, it had no impact upon the use and enjoyment of the subject property, as it was fully leased both as of the tax lien date and appellants' purchase. In fact, Parsons testified that the property has been fully occupied for more than ten years.

Second, both this Board and several appellate tribunals have rejected similar claims that the value of a property for tax purposes is appropriately reduced on a dollar-for-dollar basis to reflect remediation costs. See, *e.g.*, *Vogelgesang v. CECOS Internatl., Inc.* (1993), 85 Ohio App.3d 339; *Chem-Masters Corp. v. Geauga Cty. Bd. of Revision* (Dec. 21, 1990), B.T.A. No. 88-J-994, unreported; *Company at 34 v. Lake Cty. Bd. of Revision* (Mar. 25, 1994), B.T.A. No. 92-T-763, unreported; *Alder v. Licking Cty. Bd. of Revision* (Apr. 22, 1994), B.T.A. No. 92-R-976, unreported; *Tanson Holdings, Inc. v. Darke Cty. Bd. of Revision* (Feb. 3, 1995), B.T.A. No. 93-M-590, unreported, affirmed (1996), 74 Ohio St.3d 687; *McDonald Local School Dist. Bd. of Edn. v. Trumbull Cty. Bd. of Revision* (Feb. 2, 1996), B.T.A. No. 94-A-757, unreported; *Oakes Bronze & Aluminum Co. v. Trumbull Cty. Bd. of Revision* (Nov. 1, 1996), B.T.A. No. 95-A-585,

unreported; *Hufford v. Montgomery Cty. Bd. of Revision* (May 2, 1997), B.T.A. No. 95-M-855, unreported; *Belfance v. Trumbull Cty. Bd. of Revision* (June 30, 1997), B.T.A. Nos. 95-M-898, *et seq.*, unreported; *Hotel Statler v. Cuyahoga Cty. Bd. of Revision* (June 26, 1996), B.T.A. No. 94-S-264, unreported, affirmed (1997), 79 Ohio St.3d 299.

Finally, the fact that a property may have some deficiencies which require repairs to be effected is an insufficient basis upon which to determine its value. In *Throckmorton v. Hamilton Cty. Bd. of Revision* (1996), 75 Ohio St.3d 227, the Supreme Court considered, and rejected, arguments similar to those now advanced by appellants:

“Appellant next contends that the BTA failed to give proper consideration to the distressed condition of the property, or the higher maintenance aspects of the property. The burden was on the appellant to come forward with evidence to prove the true value of the property. *Crow v. Cuyahoga Cty. Bd. of Revision* (1990), 50 Ohio St.3d 55 \*\*\*. Evidence of needed repairs, or the cost of needed repairs, while a factor in arriving at true value, will not alone prove true value. It is the decrease in true value that may result from the need for repairs that is the important factor to be determined by the BTA.” *Id.* at 228.

See, also, *Gupta v. Cuyahoga Cty. Bd. of Revision* (1997), 79 Ohio St.3d 397. Although no evidence exists which would call into question the condition of the property as has been described by appellants, as reflected above, remedial costs alone do not prove the value of a given property.

Appellants also assert that at the time they purchased the subject property, they acquired personal property, the value of which should be removed from the sale price. Again, we find several bases for rejecting this argument. First, appellants failed to present any sale documents entered into at the time they acquired the property in April

1998 evidencing the purchase of personalty. Neither the real property conveyance fee statement nor the settlement statement disclose the purchase of any personal property. Second, appellants admitted that they did not file a personal property tax return reflecting the value of the claimed personalty. Finally, even if we were to accept appellants' claim that they acquired various items of personalty, the manner in which they attempted to estimate the value of this property is not sufficiently reliable. No appraisal of personal property as of the tax lien date was completed. Instead, Parsons testified that their accountant, who did not testify before this Board, estimated the value of the claimed personalty. Parsons also referred to subsequent purchases appellants were required to make in order to replace missing or aged items of personal property. However, this information falls far short of establishing the value of depreciable property as of the date in question.

Since appellants failed to offer competent and probative evidence demonstrating that the price they paid to acquire the subject property approximately four months following tax lien date is not the best evidence of its value, it is the decision of this Board, consistent with the decision rendered by the BOR, that the subject property had the following true and taxable values as of January 1, 1998:

	<u>TRUE VALUE</u>		<u>TAXABLE VALUE</u>
Land	\$ 63,000	Land	\$22,260
Building	<u>217,400</u>	Building	<u>76,090</u>
Total	\$280,400	Total	\$98,350

It is therefore the order of this Board that the Franklin County Auditor list and assess the subject property in accordance with our decision as announced herein.