

ORIGINAL

IN THE SUPREME COURT OF OHIO

Board of Education of the Columbus
City Schools,

Appellant,

v.

Franklin County Board of Revision,
Franklin County Auditor, and Donald W.
Beck

Appellees.

14-0721

Case No. _____

Appeal from the Ohio Board of
Tax Appeals - Case No. 2013-4176
2013-4177, and 2013-4178

NOTICE OF APPEAL OF THE BOARD OF EDUCATION OF
COLUMBUS CITY SCHOOLS

FILED
MAY 08 2014
BOARD OF TAX APPEALS
COLUMBUS, OHIO

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FILED
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CLERK OF COURT
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IN THE SUPREME COURT OF OHIO

Board of Education of the Columbus
City Schools, :

Appellant, :

v. :

Franklin County Board of Revision,
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2013-4177, and 2013-4178

NOTICE OF APPEAL OF THE BOARD OF EDUCATION OF THE
COLUMBUS CITY SCHOOLS

Now comes the Appellant, the Board of Education of the Columbus City School District, and gives notice of appeal to the Supreme Court of Ohio from the decision of the Ohio Board of Tax Appeals in the case of *Board of Education of the Columbus City Schools v. Franklin County Board of Revision, Franklin County Auditor, and Donald W. Beck*, BTA Case Nos. 2013-4176, 2013-4177, and 2013-4178, rendered on April 10, 2014, a copy of which is attached hereto as Exhibit B. The Errors complained of therein are set forth herein as Exhibit A.

Respectfully submitted,



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Board of Education of the Columbus City
School District

EXHIBIT A - STATEMENT OF ERRORS

(1) The Ohio Board of Tax Appeals (BTA) erred in affirming the Board of Revision's decision to reduce the value of the subject parcels based upon the presentation of unverified raw sales data by the property owner in direct contradiction to its own prior decisions.

(2) The BTA erred in giving the Board of Revisions' decision unlawful deference in direct contradiction to this Court's ruling in *Vandalia-Butler City Schools Bd. of Edn. v. Montgomery Cty. Bd. of Revision*, 130 Ohio St.3d 291, 2011-Ohio-5078.

(3) The BTA misapplied this Court's ruling in *Dublin City Schools Bd. of Edn. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2013-Ohio-4543, *Motion for Reconsideration pending*.

(4) The BTA erred by failing to specifically state the facts and figures upon which its decision is based.

(5) The BTA erred by failing to independently determine the true value of the subject property.

(6) The BTA erred by failing to conduct a de novo review of the record in this matter.

(7) The BTA erred by failing to specifically address any of the arguments presented by the Board of Education that demonstrated the flaws in and insufficiency of the evidence presented by Appellee Beck.

(8) The BTA erred by holding that "the property owner demonstrated that the initial assessments of the subject properties overstated their value."

(9) The BTA erred by failing to accept the Auditor's original value as the default value of the subject property.

PROOF OF SERVICE ON THE OHIO BOARD OF TAX APPEALS

I hereby certify that a true and complete copy of the foregoing notice of appeal was served upon the Clerk of the Ohio Board of Tax Appeals, as is evidenced by its filing stamp set forth hereon.



Mark Gillis (0066908)
Attorney for Appellant

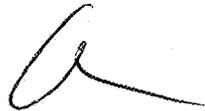
CERTIFICATE OF SERVICE BY CERTIFIED MAIL

I hereby certify that a true and complete copy of the foregoing notice of appeal was served on the following by certified mail, return receipt requested, with postage prepaid, this 8 th day of May, 2014.

Donald W. Beck
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Mark Gillis (0066908)
Attorney for Appellant

IN THE SUPREME COURT OF OHIO

Board of Education of the Columbus
City Schools, :

Appellant, :

v. :

Franklin County Board of Revision,
Franklin County Auditor, and Donald W.
Beck :

Appellees. :

Case No. _____

Appeal from the Ohio Board of
Tax Appeals - Case No. 2013-4176
2013-4177, and 2013-4178

REQUEST TO CERTIFY ORIGINAL PAPERS TO THE SUPREME COURT OF OHIO

TO: The Clerk of the Ohio Board of Tax Appeals:

The Appellant, who has filed a notice of appeal with the Supreme Court, makes this written demand upon the Clerk and this Board to certify the record of its proceedings and the original papers of this Board and statutory transcript of the Board of Revision in the case of *Board of Education of the Columbus City Schools v. Franklin County Board of Revision, Franklin County Auditor, and Donald W. Beck.*, BTA Case Nos. 2013-4176, 2013-4177, and 2013-4178, rendered on April 10, 2014, to the Supreme Court of Ohio within 30 days of service hereof as set forth in R.C. 5717.04.

Respectfully submitted,



Mark Gillis (0066908)
Rich & Gillis Law Group, LLC

Attorneys for Appellant Board of Education

C IO BOARD OF TAX APPEAL

Board of Education of the Columbus)	CASE NOS. 2013-4176 to 2013-4178
City Schools,)	
)	(REAL PROPERTY TAX)
Appellant,)	
)	DECISION AND ORDER
vs.)	
)	
Franklin County Board of Revision, et al.,)	
)	
Appellees.)	

APPEARANCES:

- | | | |
|---------------------------------|---|---|
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| For the Appellee Property Owner | - | Donald W. Beck
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Columbus, Ohio 43224 |

Entered **APR 10 2014**

Mr. Williamson, Mr. Johrendt, and Mr. Harbarger concur.

Appellant appeals decisions of the board of revision (“BOR”) which determined the value of the subject real properties, parcel numbers 010-142966-00, 010-132548-00, and 010-145969-00. This matter is now considered upon the notices of appeal and the transcripts certified by the BOR pursuant to R.C. 5717.01. The subjects’ total true values were initially assessed at \$153,700, \$153,700, and \$149,200, respectively, for tax year 2010.¹ Decrease complaints were filed with the BOR seeking reductions in value to \$81,066, \$81,066, and \$74,666, respectively. Appellant filed countercomplaints in support of maintaining the auditor’s values. The BOR issued decisions reducing the true values of the properties to \$96,000, \$97,500, and \$101,000, respectively, which led to the present appeals.

When cases are appealed from a board of revision to this board, an appellant must prove the adjustment in value requested. See, e.g., *Shinkle v. Ashtabula Cty. Bd. of Revision*, 135 Ohio St.3d 227, 2013-Ohio-397. As the Supreme Court of Ohio has consistently held, “[t]he best method of determining value, when such information is available, is an actual sale of such property between one who is willing to sell but

¹ The auditor assessed the subject properties at \$128,600, \$136,200, and \$122,400, respectively, for tax years 2011 and 2012, which are also at issue in this appeal.

not compelled to do so and one who is willing to buy but not compelled to do so. *** However, such information is not usually available, and thus an appraisal becomes necessary.”² *State ex rel. Park Invest. Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. In this instance, there exists no evidence the subject property “recently” transferred through a qualifying sale, nor did appellant provide a competent appraisal of the subject property, attested to by a qualified expert, for the tax lien date in issue.

While it is clear that valuation determinations made by county boards of revision are not presumptively correct, see, e.g., *Vandalia-Butler City School Dist. Bd. of Edn. v. Montgomery Cty. Bd. of Revision*, 130 Ohio St.3d 291, 2011-Ohio-5078, it is equally clear that a decision made by a board of revision is entitled to some consideration and that an appellant has an affirmative burden to demonstrate entitlement to the value claimed. See, e.g., *Amsdell v. Cuyahoga Cty. Bd. of Revision* (1994), 69 Ohio St.3d 572.

In its recent decision in *Dublin City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2013-Ohio-4543, the court reaffirmed the preceding principles when it considered a situation in which a board of revision had reduced the value of the property in issue, leading to an appeal by the affected board of education. The court first noted that because the board of revision adopted the property owner’s evidence to establish value, the “burden of going forward with evidence [shifted] to the board of education on appeal to the BTA to present ‘competent and probative evidence to make its case.’ *** However, the board of education did not present any evidence to support its own valuation or the auditor’s valuation and instead chose to attack [the owner’s expert’s] valuation through cross-examination. The board of education thereby failed to sustain its burden.” *Id.* at ¶16. Continuing, the court held that “when a taxpayer presents evidence contrary to the auditor’s valuation and no evidence is offered to support the auditor’s valuation, the BTA may not simply reinstate the auditor’s determination.” See, also, *Bedford Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, 115 Ohio St.3d 449, 2007-Ohio-5237.

In the present cases, we conclude the property owner demonstrated that the initial assessments of the subject properties overstated their value. The BOR, established to initially review valuation challenges at the local level, took into consideration the taxpayer’s evidence, as well as the information available to it, and concluded that an adjustment to value was warranted. On appeal, the BOE presented no evidence of

² Justice Pfeifer’s concurrence in *LTC Properties, Inc. v. Licking Cty. Bd. of Revision*, 133 Ohio St.3d 111, 2012-Ohio-3930, echoes the court’s prior observations: “All property owners and their counsel know that they have a heavy burden to overcome when challenging a valuation. *** [I]f a[n appellant] wants to challenge a valuation, it should send a certified appraiser or other qualified expert, not an employee, however experienced. It is well known that the only nonexperts competent to testify as to valuation are owners. Finally, the best way to challenge a valuation is with a proper appraisal, which was not submitted in this case.” *Id.* at ¶28. The court has also held that “[w]hile an owner may testify as to the value of his or her property, there is no requirement that the finder of fact accept that value as the true value of the property.” *WJJK Investments, Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29, 32. Rather, this board is charged with the responsibility of determining value based upon evidence properly contained within the record which must be found to be both competent and probative. *Strongsville Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1997), 77 Ohio St.3d 402, 405; *Cardinal Fed. S. & L. Assn. v. Bd. of Revision* (1975), 44 Ohio St.2d 13, paragraph two of the syllabus.

value, relying instead solely upon its legal arguments that the BOR's decisions are unsupported. While such an approach is permissible, courts have recognized that the election to proceed in such a manner is not without risk since the reviewing body may concur that the record is sufficient to support the board of revision's valuation. See, e.g., *Dublin City Schools Bd. of Edn.*, supra; *Westhaven, Inc. v. Wood Cty. Bd. of Revision* (1998), 81 Ohio St.3d 67; *Fairlawn Assoc. Ltd. v. Summit Cty. Bd. of Revision*, Summit App. No. 22238, 2005-Ohio-1951. In this instance, we find insufficient the arguments advocating for reinstatement of the originally assessed values since we agree the record does not support such amounts. Instead, we find the adjustments effected by the BOR to be supported by the record. It is therefore the order of this board that the true and taxable values of the subject property, as of January 1, 2010, January 1, 2011, and January 1, 2012, were as follows:

PARCEL NO.	TRUE VALUE	TAXABLE VALUE
010-142966-00	\$ 96,000	\$33,600
010-132548-00	\$ 97,500	\$34,130
010-145969-00	\$101,000	\$35,350

It is the order of the Board of Tax Appeals that the subject property be assessed in conformity with this decision and order.

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.



A.J. Groeber, Board Secretary