

**IN THE SUPREME COURT  
STATE OF OHIO  
APPEAL FROM OHIO BOARD OF TAX APPEALS**

**JILLIAN PAVILONIS**

**Appellee**

**SUPREME COURT CASE NO.**

**v.**

**CUYAHOGA COUNTY BOARD OF  
REVISION, CUYAHOGA COUNTY  
FISCAL OFFICER, TAX COMMISSIONER  
OF THE STATE OF OHIO**

**Appellants**

**BOARD OF TAX APPEALS  
CASE NO. 2014-4517**

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**NOTICE OF APPEAL**

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*Appellee*

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STATE OF OHIO**

**IN THE SUPREME COURT  
STATE OF OHIO  
APPEAL FROM OHIO BOARD OF TAX APPEALS**

JILLIAN PAVILONIS

Appellee

SUPREME COURT CASE NO.

v

CUYAHOGA COUNTY BOARD OF  
REVISION, CUYAHOGA COUNTY  
FISCAL OFFICER, TAX COMMISSIONER  
OF STATE OF OHIO

Appellants

BOARD OF TAX APPEALS  
CASE NO. 2014-4517

NOTICE OF APPEAL TO THE OHIO  
SUPREME COURT PURSUANT TO  
OHIO REVISED CODE §5717.04

The Appellees Cuyahoga County Fiscal Officer and Cuyahoga County Board of Revision, by and through counsel, hereby give notice of their appeal to the Supreme Court of the State of Ohio from the Decisions and Order of the Ohio Board of Tax Appeals, rendered on July 23, 2015. A copy of which is attached hereto, and which is incorporated herein as though fully rewritten in this Notice of Appeal. (Exb. A)

Appellees hereby complain of the following errors in the Decision and Order of the Board of Tax Appeals:

Assignment of Errors

1. The board of tax appeals decision is unreasonable and unlawful, because the complainant, and alleged sole owner, Jillian Pavilonis Uchbar, who prepared the complaint did not appear before the board of revision, and also waived appearance at the board of tax

appeals, and thereby, the board of tax appeals decision is an abuse of discretion, because its' based on defective evidence that should not have been considered, because the evidence was presented by complainant's spouse, Eric Uchbar, who is not an attorney, and allegedly not an owner, and he made legal arguments, examined a witness, and undertook other tasks that can be performed only by an attorney.

2. The board of tax appeals decision is unreasonable and unlawful because it fails to follow precedent where although it is undisputed Jillian Pavolonis and Eric Uchbar are married, and allegedly owned the property at different times, the board of tax appeals abused its' discretion because it did not have jurisdiction over this matter, because it is a second filing in a triennium, because although Eric Uchbar transferred the property to his wife from Transworld Investments LLC, which he is a member, he still has an interest in the property due to his wife's ownership.
3. The board of tax appeals decision is unreasonable and unlawful because it fails to follow precedent where although it is undisputed Jillian Pavolonis and Eric Uchbar are married, and allegedly owned the property at different times, the board of tax appeals abused its' discretion because it did not have jurisdiction over this matter, because it is a second filing in a triennium, whereby, the BTA ignored precedent, the record herein, and *Transworld Investments L.L.C. (c/o Eric J. Uchbar) v. Cuyahoga County BOR, et al.* (Jan. 15, 2014), BTA No. 2013-4113 and 2013-4114 (Exb. B), which all show that the foregoing parties have the same address.
4. The board of tax appeals decision is unreasonable and unlawful because it fails to follow precedent where although it is undisputed Jillian Pavolonis and Eric Uchbar are married, and allegedly owned the property at different times, the board of tax appeals abused its' discretion because it did not have jurisdiction over this matter, because it is a second filing in a triennium, whereby, the BTA ignored evidence of the sham property transfer from Eric Uchbar to complainant Jillian Pavolonis, where the record shows that she actually goes by the name Jillian Uchbar.
5. The board of tax appeals decision is unreasonable and unlawful because it fails to follow precedent where although it is undisputed Jillian Pavolonis and Eric Uchbar are married, and allegedly owned the property at different times, the board of tax appeals abused its' discretion because it did not have jurisdiction over this matter, because it is a second filing in a triennium, whereby, the BTA ignored the testimony of Eric Uchbar, although presented in an unauthorized practice of law context, in which on numerous occasions he used the words "me" and "I" explaining his total involvement in the property, and not at one time was there any testimony regarding the complainant's involvement in the property, in any aspect, thereby evidencing Eric Uchbar's ownership interest in the property.

Appellant requests that the Supreme Court vacate the Board of Tax Appeals decision and

order the Board of Tax Appeals to determine that the value of the subject property for the 2013 triennium at the fair market value determined by the County Fiscal Office at \$48,000.

Respectfully submitted,

TIMOTHY McGINTY, Prosecuting  
Attorney for Cuyahoga County, Ohio



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*Attorneys for Appellants Cuyahoga County  
Fiscal Office and Board of Revision*

PROOF OF SERVICE

I hereby certify that a copy of this Notice of appeal was sent this 24<sup>th</sup> day of August, 2015 by certified mail, return receipt requested to:

Jillian Pavilonis Uchbar  
2543 Hilltop Rd.  
Richmond Heights, OH 44143  
Appellee

Michael DeWine, Ohio Attorney General  
State Office Tower  
30 East Broad St  
Columbus, OH 43215  
Attorney for Ohio Tax Commissioner



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Reno J. Oradini, Jr. (0039848)  
Assistant Prosecuting Attorney

OHIO BOARD OF TAX APPEALS

JILLIAN PAVILONIS, (et. al.),

CASE NO(S). 2014-4517

Appellant(s),

(REAL PROPERTY TAX)

vs.

DECISION AND ORDER

CUYAHOGA COUNTY BOARD OF REVISION,  
(et. al.),

Appellee(s).

APPEARANCES:

For the Appellant(s) - JILLIAN PAVILONIS  
Represented by:  
JILLIAN UCHBAR  
2543 HILLTOP RD.  
RICHMOND HTS., OH 44143

For the Appellee(s) - CUYAHOGA COUNTY BOARD OF REVISION  
Represented by:  
RENO J. ORADINI, JR.  
ASSISTANT PROSECUTING ATTORNEY  
CUYAHOGA COUNTY  
1200 ONTARIO STREET, 8TH FLOOR  
CLEVELAND, OH 44113

Entered Thursday, July 23, 2015

Mr. Williamson, Ms. Clements, and Mr. Harbarger concur.

Appellant appeals a decision of the board of revision ("BOR"), which determined the value of the subject real property, parcel number 649-30-959C, for tax year 2013. This matter is now considered upon the notice of appeal, the transcript certified by the BOR pursuant to R.C. 5717.01, and the county appellees' written argument.

The subject's total true value was initially assessed at \$48,000. A decrease complaint was filed with the BOR seeking a reduction in value to \$12,000. At the BOR hearing, appellant relied on the testimony of her husband, Eric Uchbar, as well as the testimony and written report of appraiser Ruth Lassiter, who opined that the subject's value was \$18,000 as of January 1, 2013. Mr. Uchbar testified about the subject property's occupancy and rental income, along with his knowledge of the area. Mr. Uchbar further testified that the property had transferred from Transworld Investments LLC ("Transworld"), an entity of which he is a member, to his wife, though evidence of this transfer is not included in the record. The BOR provided a list of sales of properties for Ms. Lassiter to review and make comment, though this list of sales was likewise not included in the transcript. The BOR also discussed a complaint filed for a prior year, but this prior complaint was also not included in the transcript. Accordingly, we are unable to consider such evidence in our determination. We remind the BOR that parties and various tribunals rely upon boards of revision to fulfill their statutory duties to create and

(Exh. A)

maintain a record capable of being reviewed on appeal. R.C. 5715.08; R.C. 5717.01. The Supreme Court has noted that “[f]ailure to certify the entire evidentiary record may prejudice the interest of the proponents of the omitted items, and therefore, boards of revision should take care to comply with the statutory duty to certify the entire record.” *Vandalia-Butler City Schools Bd. of Edn. v. Montgomery Cty. Bd. of Revision*, 130 Ohio St.3d 291, 2011-Ohio-5078, ¶27 at fn. 4. (Emphasis in original.)

Following the hearing, the BOR issued a decision maintaining the initially assessed valuation, which led to the present appeal. On appeal, appellant again relies on Ms. Lassiter’s appraisal to establish the true value of the property. The county appellees argue that there was not an arm’s-length sale and that there appears to be a jurisdictional issue based on appellant’s filing multiple complaints within the same interim period.

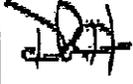
At the outset, we will address the county appellees’ jurisdictional argument. R.C. 5715.19(A)(2) provides, with limited exceptions, that “No person, board, or officer shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period.” At the BOR hearing, Mr. Uchbar did not dispute that an earlier complaint had been filed, though he testified it was filed by Transworld. Mr. Uchbar further testified that although he is a member of Transworld, appellant is not. In their motion, the county appellees acknowledge that Transworld filed the earlier complaint, but they argue that it is still a multiple filing because Transworld and appellant share the same address. Although we are limited in our analysis because the earlier complaint is not in the record for this board to review, there appears to be no dispute that the complaints were filed by two separate complainants. Thus, the 2013 complaint filed by appellant is not prohibited by R.C. 5715.19(A)(2), and the BOR properly exercised jurisdiction.

“When 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 [in] 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, 566. See, also, *Shinkle v. Ashtabula Cty. Bd. of Revision*, 135 Ohio St.3d 227, 2013-Ohio-397. In *EOP-BP Tower, L.L.C. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 1, 2005-Ohio-3096, ¶6, the court elaborated: “In order to meet that burden, the appellant must come forward and demonstrate that the value it advocates is a correct value. Once competent and probative evidence of value is presented by the appellant, the appellee who opposes that valuation has the opportunity to challenge it through cross-examination or by evidence of another value. *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, \*\*\*. The appellee also has a choice to do nothing. However, the appellant is not entitled to the valuation claimed merely because no evidence is adduced opposing that claim. *W. Industries, Inc. v. Hamilton Cty. Bd. of Revision* (1960), 170 Ohio St. 340, 342, \*\*\*.” *Id.* at ¶¶5-6. (Parallel citations omitted.)

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 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.” *State ex rel. Park Invest. Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410. Such is the case in this matter, as the record does not indicate that the subject property “recently” transferred through a qualifying sale. Upon review of appellant’s appraisal evidence, which provides an opinion of value as of tax lien date, was prepared for tax valuation purposes, and attested to by a qualified expert, we find the appraisal to be competent and probative and the value conclusion reasonable and well-supported.

It is therefore the order of this board that the true and taxable values of the subject property, as of January 1, 2013, were as follows:

TRUE VALUE  
\$18,000  
TAXABLE VALUE  
\$6,300

BOARD OF TAX APPEALS		
RESULT OF VOTE	YES	NO
Mr. Williamson		
Ms. Clements		
Mr. Harbarger		

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.



Kathleen M. Crowley, Board Secretary

OHIO BOARD OF TAX APPEALS

Transworld Investments L.L.C. (c/o Eric J. Uchbar),	)	CASE NOS. 2013-4113
	)	and 2013-4114
	)	
Appellant,	)	(REAL PROPERTY TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Cuyahoga County Board of Revision and Cuyahoga County Fiscal Officer,	)	
	)	
	)	
Appellees.	)	

APPEARANCES:

For the Appellant	- Eric J. Uchbar, Member Transworld Investments L.L.C. 2543 Hilltop Rd. Richmond Hts., Ohio 44143
For the County Appellees	- Timothy J. McGinty Cuyahoga County Prosecuting Attorney Reno J. Oradini, Jr. Assistant Prosecuting Attorney Courts Tower, 8th Floor 1200 Ontario Street Cleveland, Ohio 44113

Entered JAN 15 2014

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

The fiscal officer determined that the total true values of the subject properties, parcel numbers 641-18-053 and 649-30-959C, were \$46,800 and \$48,000, respectively, for tax year 2012. The appellant filed decrease complaints with the board of revision ("BOR") seeking reductions in value of the properties to \$14,000, and \$14,100, indicating that the properties last sold for those amounts in arm's-length transactions.<sup>1</sup> Hearings were convened before the BOR, and Eric Uchbar, a member of the owner, testified that parcel number 641-18-053 was purchased from a bank in March 2011 for \$14,000. He further indicated that, between the date of purchase and

<sup>1</sup> A complaint against the value of parcel number 641-18-053 was also filed by David Lynch; however, that complaint was dismissed as a duplicate of the complaint filed by Eric Uchbar on behalf of Transworld Investments.

Exhibit B

tax lien date, the property's roof was replaced at a cost of between \$7,000 to \$8,000. As to parcel number 649-30-959C, Mr. Uchbar testified that the property was purchased in February 2008 for \$14,100, and presented the 2012 valuation of a comparable property in the same condominium complex. After considering the evidence presented, the BOR decreased the value of parcel number 641-18-053 to \$22,000, and found that no change in value was warranted for parcel number 649-30-959C. Appellant thereafter filed the instant appeals. The parties waived the opportunity to appear before this board to provide additional evidence or testimony. Therefore, these matters are considered upon the notice of appeal and the transcript certified by the BOR pursuant to R.C. 5717.01.

The appellant must prove the right to the value asserted. *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336. When determining value, it has long been held by the Supreme Court that "the best evidence of 'true value in money' of real property is an actual, recent sale of the property in an arm's-length transaction."<sup>2</sup> *Conalco v. Bd. of Revision* (1977), 50 Ohio St.2d 129.

Here, although appellant has presented sales of the subject properties, we find only the sale of parcel number 641-18-053 to be recent to tax lien date 2012. We find that the sale of parcel number 649-30-959C, which occurred approximately forty-six months before tax lien date, is not a recent sale.<sup>3</sup> It is therefore the order of this board that the subject properties' true and taxable values, as of January 1, 2012, were as follows:

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<sup>2</sup> Ohio courts have declined to establish a "bright line" test for determining whether a particular sale is "recent" to or "remote" from a tax lien date, and the Supreme Court has made it clear that the mere passage of time does not, per se, render a sale unreliable. See, e.g., *Lakota Local School Dist. Bd. of Edn. v. Butler Cty. Bd. of Revision*, 108 Ohio St.3d 310, 2006-Ohio-1059 (reversing this board's decision and ordering that the property's taxable value as of January 1, 2002 be based upon its sale which occurred in October 2003, twenty-two months after tax lien date).

<sup>3</sup> While Mr. Uchbar also presented evidence regarding the fiscal officer's valuation of a comparable property, as support for the requested decrease for parcel number 649-30-959C, "[m]erely showing that two parcels of property have different values without more does not establish that the tax authorities valued the properties in a different manner." *WJK Investments, Inc. v. Licking Cty. Bd. of Revision* (1996), 76 Ohio St.3d 29, at 31.

Parcel no. 641-18-053

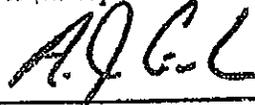
	TRUE VALUE	TAXABLE VALUE
Total	\$ 14,000	\$ 4,900

Parcel no. 649-30-959C

	TRUE VALUE	TAXABLE VALUE
Total	\$ 48,000	\$ 16,800

It is the order of the Board of Tax Appeals that the Cuyahoga County Fiscal Officer list and assess the subject properties 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.



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A.J. Groeber, Board Secretary