

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

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