

IN THE SUPREME COURT OF OHIO

BOARD OF EDUCATION OF THE
WEST CARROLLTON CITY SCHOOLS

*

CASE NO. 2015-0389

*

Appellant

*

Appeal from Board of Tax Appeals
BTA Case No. 2012-4862

vs.

*

MONTGOMERY COUNTY BOARD
OF REVISION, et al.

*

Appellees

ANSWER BRIEF OF APPELLEE, CARMAX AUTO SUPERSTORES, INC.

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APPELLEE CARMAX AUTO SUPERSTORES, INC. (CARMAX)
STATEMENT OF THE CASE AND FACTS

This is an appeal by the Appellant, the Board of Education of the West Carrollton City Schools, Montgomery County, Ohio (BOE) from a decision by the Board of Tax Appeals (BTA). It involves the determination of the tax year 2011 value of two parcels of real estate located within the corporate boundaries of the City of West Carrollton, Montgomery County, Ohio. In the BOE's Statement of Facts, it alleges that the two parcels are located within the corporate boundaries of the City of Miamisburg, Montgomery County, Ohio. This is incorrect. The two parcels of real estate consist of a total of approximately 15 + acres. The Montgomery County Auditor lists the properties as parcel numbers K-48004150010 and K-48004150011.

On March 7, 2012, the Appellant BOE filed a Complaint Against Valuation of Real Property with the Montgomery County Board of Revision (BOR), BOR Case No. 2492. A copy of the BOE Complaint Against Valuation is attached hereto as Carmax Exhibit #1.

On November 16, 2012, the Montgomery County BOR ruled against and rejected the Complaint Against Valuation filed by the West Carrollton BOE.

Line 7 of the Complaint Against Valuation of Real Property asks for the "Principal use of property". The BOE filled in - "400 Commercial-vacant land". Paragraph 8 of the Complaint, the BOE filled in information pertaining only to the value of the real estate making no reference to the improvements located on said real estate. Said improvements were constructed in 2008 and were on the tax bill for 2009 and 2010. Paragraph 9, the BOE in justifying its request to change, wrote simply: "Recent arm's length sale of subject property for \$5,850,000". At question 10, the BOE swore that the property had been sold in the last three years and showed the sale date, which stated 01/09/2008, or four years previous to the filing date of its Complaint

Against Valuation. The Complaint was sworn to on 3/5/12 by the attorney for the Complainant and notarized.

At the evidentiary hearing held before the BOR in 2012, the only evidence submitted by the BOE was a copy of the January 8, 2008 deed and Conveyance Fee Statement conveying the property to Appellee Carmax. The BOE appealed the decision of the Montgomery County BOR to the Ohio Board of Tax Appeals (BTA), being Case No. 2012-4862.

A merit and evidentiary hearing before the BTA, Case 2012-4862, was held on May 8, 2014, in its Columbus office. The only evidence that the BOE offered was the January 8, 2008 deed and Conveyance Fee Statement whereby the Appellee Carmax took title to the real estate and a copy of the actual cost of the newly constructed auto superstore which was in the amount of \$7,015,740. BOE obtained this information from Carmax pursuant to a discovery order of the BTA. Carmax, through its counsel, contested the discovery order pertaining to the cost of the 2008 improvements due to the undisputed fact that they were not a part of the official Complaint Against Valuation filed by the BOE. This issue will be addressed later.

DETAILED FACTS

1. Carmax operates nationwide used car sales points. Carmax normally positions its sales points so that they are visible from Interstate highways. While many of the cars are located in areas surrounding the Carmax building, featured cars are also located inside the building. Carmax has been quite successful in its method of selling used cars and is a Fortune 500 Company.

2. On March 24, 2007, Carmax entered into a contract to purchase two contiguous undeveloped parcels of real estate in West Carrollton, Montgomery County, Ohio, for the sum of

\$5,850,000. The larger of the two parcels was approximately 14.4 acres in size and the smaller contiguous parcel was approximately .61 acre in size, for a total of approximately 15 + acres. The purchase contract was contingent upon Carmax obtaining all the necessary zoning and other approvals for the construction and use of a used car store.

3. Near the end of 2007, Carmax had all of the approvals in place and was ready to close. The buyer requested that the closing be delayed until after January 1, 2008, so that it could report the gain of the sale on its 2008 tax return, due April 15, 2009. The closing took place on January 8, 2008.

4. In 2008, due to the country-wide recession, the commercial real estate market collapsed, not only in Montgomery County, Ohio, but nationwide.

5. On March 20, 2009, the West Carrollton Board of Education, the Appellant herein, filed its first Complaint Against Valuation with the Montgomery County Board of Revision, Case No. 6038, requesting the value of the Carmax real estate be increased to \$5,850,000. The School Board based its Complaint upon the 2007 contract price which closed on January 8, 2008.

6. At a subsequent hearing before the Montgomery County BOR in 2009, Michael N. Moorhead, State of Ohio Certified Appraiser, testified that the two parcels of real estate purchased by Carmax had a fair market value of \$2,600,000. The School Board relied totally upon the March, 2007 sale contract and presented no testimony as to valuation by an appraiser.

7. The Montgomery County BOR found that the smaller tract's true value was \$61,000 and the value of the larger tract was \$2,880,000, for a total appraised value of the two parcels of \$2,941,000.

8. The BOE for West Carrollton appealed the Montgomery County BOR's decision to the Ohio BTA in Case No. 2009-K-3910. The BTA citing Ohio Supreme Court decisions held that the 2007-08 sale price was by law the fair market value of the approximately 15 + acres and increased the appraised value of the two parcels to the sale price of \$5,828,940. In view of the Supreme Court decisions, Carmax elected not to appeal to the Supreme Court of Ohio.

9. In the year 2008, Carmax constructed improvements on the larger of the two tracts, to-wit, the 14.4 acre tract. As a result of the BTA's decision, the Montgomery County Auditor was forced to increase the fair market value of the two parcels to the sale price of \$5,828,940.

10. For the year 2009, the Montgomery County Auditor found the improvements on the 14.4 acre tract to be in the amount of \$2,453,620. It added that amount to the \$5,828,940 (BTA value), thus, the total valuation of the land and improvements went to \$8,282,560. It remained at \$8,282,560 for 2010.

11. In 2010, the Montgomery County Auditor did a triennial reappraisal and reduced the total value of the property from \$8,282,560 to \$4,664,230 for the tax year 2011. The land was appraised at \$2,476,880 and the improvements at \$2,187,430. The appraisal for the .61 acre vacant tract increased in value from \$21,060 in 2010, to \$52,460 for 2011.

12. On March 7, 2012, the West Carrollton School Board again filed a Complaint Against Valuation with the Montgomery County Auditor requesting that the real estate valuation be increased to \$5,850,000, the amount of the 2007 real estate contract. Its Complaint Against Valuation contained **no** reference whatsoever to the value of the improvements nor did the BOE present any evidence of the value of the improvements, though they had been on the tax bill for both 2009 and 2010 at \$2,187,430.

13. At the hearing before the Montgomery County BOR in 2012, the School Board offered no evidence other than the deed and Conveyance Fee Statement, dated January 8, 2008, some 35 months and 23 days prior to the 2011 tax year. Carmax further argued that Auditor's valuation was a result of the triennial re-evaluation procedure conducted by the Auditor and an independent appraisal firm. Carmax further argued that the sale did not pass the so-called recency test because of the collapse of the commercial real estate market in the year 2008.

14. The West Carrollton BOE's Complaint Against Valuation was denied and the BOR adopted the Montgomery County Auditor's 2011 triennial appraisal of the property, to-wit, \$2,476,880 for the land and \$2,187,430 for the improvements for a total of \$4,664,230.

15. The School Board appealed the BOR's decision to the Ohio BTA, being BTA Case No. 2012-K-4862 and being the case that is presently before the Court.

16. The School Board submitted Interrogatories to Carmax requesting, among other things, the name of the appraiser Carmax intended to call at the Merit Hearing before the BTA. The answer given was Michael N. Moorhead, the appraiser that did testify at the May 8, 2014 Merit Hearing. The School Board also requested the identity of the person to contact for an inspection of the property. The answer to that was Attorney John R. Koverman, 1300 Liberty Tower, 120 West Second Street, Dayton, Ohio 45402.

17. The School Board **never** sought to officially inspect the premises.

18. The West Carrollton BOE also requested Production of Documents with which Carmax complied, except the AIA Certificate regarding the cost of the improvements. Carmax filed an objection arguing that the Complaint Against Valuation was **only** to the value of the land and that no evidence was offered with regard to the value of the improvements. The Revised

Code Section reads that the BTA may take **additional** evidence, however, since there was no evidence at all offered on the improvements before the BOR, Appellee still contends that the BTA is without authority to order **additional** evidence.

19. The Board subsequently ordered Carmax's attorney to present the AIA Certificate and cited Mr. Koverman for Contempt even though the Certificate was provided to the School Board prior to the hearing date on the Contempt and fined him \$750.00. The Ohio BTA had rejected Mr. Koverman's request for a Continuance. Said request was made a week before the matter was scheduled for hearing. The hearing was held without Mr. Koverman in attendance and he was fined \$750.00 for failing to provide a document he had already provided.

20. At the Merit Hearing before the Hearing Officer on Thursday, May 8, 2014, the only evidence submitted by the Appellant was the 2008 deed to Carmax, the Conveyance Fee Statement, and the AIA Certificate relative to the cost of the improvements. Appellant offered no other testimony, either written or oral. Carmax objected to the AIA Certificate admission as evidence of value.

21. Appellee Carmax offered the testimony of expert witness, certified appraiser Mike Moorhead. Mr. Moorhead testified that a recent sale (2014) of a 14 acre tract near the Carmax site, and visible from an Interstate, sold for \$1,900,000. Mr. Moorhead further testified that he believed the present value of the Carmax real estate was somewhere less than his earlier appraisal of \$2,600,000. He also testified that the commercial real estate market **has not** rebounded from the recession.

22. Mr. Moorhead testified that an appraisal could not be made based solely on the AIA Certificate as to cost, as other factors such as location and functionality must be considered

for a valid appraisal. It should be noted that Carmax is in the business of selling late model used cars and the building was constructed for that sole purpose. It has indoor showrooms for used cars, with carrousel where potential buyers can review inventories or select models that he or she would like to see in person. Carmax does take a potential purchaser's used car in trade. Its building is located on the property so that it can be seen from Interstate 75. It contains no facilities for the repair, maintenance, or bodywork on motor vehicles, and thus, is not suitable for a new car dealership or for some other retail purpose.

23. The BOE **did not** offer the expert testimony of an appraiser at either evidentiary hearings before the BOR or the BTA. The BOE evidently took the position that the testimony of expert appraisers was not necessary, or perhaps it received appraisals that were consistent with the County Auditor valuation.

LAW AND ARGUMENT

Introduction.

The BOE's case is fraught with errors. It began with its 2012 Complaint Against Valuation of Real Property that the BOE filed with the BOR for Montgomery County for the year 2011, Case No. 2492. A copy of said Complaint is attached hereto as Appellee Carmax Exhibit #1. As previously set out in the Statement of the Case and Facts, the Complaint was limited to the value of the real estate. There was no mention or recitation of the existence of the improvements. This was even though the building had appeared on the tax bill for 2009 and 2010.

At the hearing before the BOR, the BOE presented no evidence as to the value of the real estate parcels other than the deed, by which Carmax took title, and the Conveyance Fee

Statement, both dated January 8, 2008, based on a contract entered into in early 2007. January 8, 2008 was 35 months and 23 days prior to the tax year 2011 and prior to the great recession.

The only evidence to support the BOE's Complaint Against Valuation before the BTA was the 2008 deed and Conveyance Fee Statement. The BOE did present the cost of the building and other improvements (parking lot, etc.) that it obtained by an order of discovery and proffered it as evidence as to value at the hearing before the BTA. At the BTA hearing, the expert witness appraiser for the Appellee Carmax gave testimony that the statement of costs (the AIA Certificate) is not indicative of fair market appraisal unless accompanied by additional evidence as to functional obsolescence and external obsolescence factors. See lines 16 through 25, page 39, and lines 1-12 at the top of page 40. He also testifies on page 40 that he could not rely solely upon cost to determine fair market value. At lines 22 through 25 of page 40, and line 1 of page 41, the only expert witness to testify as follows:

“But just to look at the cost new and say that would be the value, I couldn't agree with that.”

Further, at the hearing on this matter before the BTA on May 8, 2014, the BOE moved to have the AIA Statement of the cost of building admitted as evidence as to value. After argument at the bottom of page 29 of the Transcript of the Record of the Hearing before the BTA, the BTA beginning at line 24 stated:

“THE EXAMINER: At this time I am going to go ahead and reserve ruling on Appellee's (Carmax) objection to Appellant's Exhibit A, assuming that he (referring to Appellee's attorney) does stipulate to the credibleness or the authenticity of the documents, but objects to those documents being used to establish the true value of the parcel.”

Also at the bottom of page 39 of the Transcript of the proceedings before the BTA, the expert appraiser for Carmax testified beginning at line 22 on page 39 through line 25 on page 40.

All of said Transcript appears in the Supplement of Appellant filed previously herein. Of course the BOE offered no testimony on either of these factors.

It appears that the BOE did not have either the land or the building appraised, or if they had them appraised, they chose not to submit them as evidence.

Appellee Carmax's Argument Contra to Appellant's Proposition of Law No. 1:

In March of 2007, Carmax entered into a contract to purchase the 15 + acres. Said contract was contingent upon Carmax being able to obtain the proper zoning for a used car sales operation and all the proper permits to construct a used car sales building and lot. Towards the end of 2007, Carmax had completed all of the above and was ready to close. The Seller requested that the closing take place after January 1st, for the obvious reason that it wanted to take the capital gain that it would be making on the property into the 2008 year rather than having it in the 2007 year. This would delay any taxes thereon until April of 2009, rather than April of 2008. This is a common practice in commercial real estate sales.

In the year 2007 and 2008, the combined fair market value by the Auditor of Montgomery County for the two parcels was approximately \$600,000.00. In 2009, the Board of Education of West Carrollton, in whose district the parcels were located, filed a Complaint Against Valuation. The Board of Revision for Montgomery County, after hearing testimony from Carmax's expert appraiser, found the fair market value to be approximately \$2,800,000.00. The BOE appealed to the BTA and it reversed the BOR and set the sales price of \$5,828,940 as the fair market value (the sale price). After reviewing the case law as set forth by this Court, Carmax decided not to appeal, even though the commercial real estate market suffered a huge decline in value beginning in the latter part of 2007 and 2008, making the true value of commercial real estate in many instances less than half of the pre-recession values.

Carmax would argue that the language in R.C. 5713.03 “within a reasonable length of time” is a term that was effected by a large scale recession such as that of late 2007 and 2008. Not to take the 2008 recession as a modifier of “reasonable length of time” bears no relationship to reality or to the real true fair market value. The Montgomery County Auditor and the professional appraisers they have retained have taken the recession into account when appraising both commercial and residential real estate. Banks have also taken the recession into account and have to comply with the standards of Dodd-Frank. To rely on a contractual purchase price entered into in February, 2007, and closed in January of 2008, as the true value of the property in 2011 is an unreasonable decision.

The State used the term “reasonable” when passing R.C. 5713.03 in order to adjust to the very variable real estate market. The Merriam-Webster Dictionary says that the term reasonable means “**fair and sensible**”. Certainly, not to use that as a definition of reasonable is unreasonable. In a stable market perhaps the number of years would be appropriate, but the commercial real estate market is not and never will be stable as other forces in a free economy causes the ups and downs in real estate values.

Be that as it may be, in 2010, the Montgomery County Auditor conducted triennial updates on all the property in Montgomery County. The Carmax real estate, together with the improvements thereon, were revalued for the year 2011. Carmax agreed with said revaluation. The Board of Education **did not** agree with said revaluation and filed a Complaint Against Valuation challenging the valuation of the real estate and not the improvements. The Complaint Against Valuation had absolutely no reference to the improvements and was solely based upon the price that Carmax paid for the vacant real estate in January of 2008, based upon a contract of

sales entered into in early 2007. Further, the BOE presented no evidence with regard to the fair market value of the improvements that had been added to the property in 2008, and which in fact, were on the tax bill for the properties beginning in 2009.

The BOR found the Auditor's revaluation of the real estate was correct and denied the Complaint Against Valuation. Carmax presented no evidence at the hearing before the BOR, nor was it required. The valuation of the property for the year 2011 was provided to the Auditor by a Dayton based appraisal company, Tyler Technologies. There could be no reason whatsoever for the Montgomery County Auditor or the paid professionals retained to come up with true values of real estate and improvements for less than fair market value.

Since that time, as stated in *Akron City School District Board of Education v. Summit County Board of Revision*, 139 Oh.3d 92, 2014-Ohio-1588, 9 N.E.3d 1004:

“On the other hand, the fiscal officer (auditor) also has the duty ‘when practicable [to] increase or decrease the taxable valuation of parcels in accordance with actual changes in valuation of real property which occur in different subdivisions, neighborhoods, or among classes of real property in the county’. In other words, the fiscal officer must conduct a reappraisal that considers all relevant factors in determining the current value of property. As a public official, the fiscal officer is presumed to carry out his statutorily prescribed duties in good faith and in the exercise of good judgment, absent a showing to the contrary.”

The Court in *Akron City School District Board of Education, supra*, then established a 24 month rule. The Court went on to say in *Akron*,

“We hold that a sale that occurred more than 24 months before the lien date and that is reflected in the property record maintained by the county auditor or fiscal officer should not be presumed recent when a different value has been determined for that lien date as part of the six-year reappraisal.”

In this case, it was a triennial re-evaluation that was done in 2010 for the year 2011. Each triennial re-evaluation has the effect of the six year reappraisal in that it raises or lowers appraisal

values based upon current conditions. To hold otherwise would be contrary to the statutes contained in R.C. 5713.

The statutes provide that the fiscal officer (Auditor) has the duty to increase or decrease taxable valuation of parcels in accordance with actual changes in valuation of real property which occur.

Further, the words in Statute R.C. 5713.03 clearly state that a sale to be considered judicially as a recent sale must be “within a reasonable length of time”. Many years ago when I was in law school at Ohio State, Professor Fulda stated repeatedly that in determining the meaning of a statute “words mean something”. As stated above, the word reasonable means “fair and sensible”.

It should also be kept in mind that in 2010, the Montgomery County fiscal officer, to-wit, the Auditor, did a triennial evaluation of real property and its improvements in the County. He was assisted by a professional appraisal firm and revalued the property accordingly. This was proper and legal and certainly comes under the reasoning set forth in this Court in the *Akron case*.

Therefore, Appellant’s proposed Proposition of Law No. 1 is incorrect and the value determined by the Montgomery County Auditor and confirmed by the Montgomery County BOR and the State BTA for the year 2011, should be sustained.

Appellee Carmax’s Argument Contra to Appellant’s Proposition of Law No. 2:

It was stated by Appellant that actual construction costs provide the best evidence for newly built special purpose property. Appellee Carmax takes the position that actual construction costs alone do not provide any evidence of value for a newly built special purpose

property. Mr. Moorhead, Carmax's expert appraiser, testified that he could not give an appraisal based on cost figures alone. The Transcript of his testimony states at Page 40 that other factors that must be considered, such as increasing and decreasing returns, contributions and also functional and external factors, for a true value appraisal.

Carmax argues that the value of improvements made by Carmax on the real estate was not put an issue before the Montgomery County BOR. Yet for some reason, the BTA ruled that this issue could be addressed by the BTA at its hearing. This certainly flies in the face of any form of due process. It was the Appellant BOE that decided not to pursue the valuation given to the improvement by the County Auditor in its Complaint. It almost appears from the Complaint that the BOE had no knowledge of these improvements, even though they had been on Carmax's tax bill for the years 2009 and 2010. The BTA should **not** have allowed this to be a part of the appeal.

Secondly, Carmax would like to point out that as stated above, the discovery pertaining to the AIA Statement of Costs was delivered to the BOE only upon a direct order from the BTA. At the hearing before the BTA, although Carmax, through its attorney, had stipulated that the AIA cost sheet was correct and that the improvements had been done on the 15 + acre tract, their admission as evidence of value was objected to and the hearing officer took the matter as to its admission as evidence as to value under advisement. Obviously, from the BTA's Decision in this matter, that it found Appellant's cost evidence to be inadmissible since it was not supported by other factors that are relevant in an actual appraisal of the value of the improvements.

Perhaps the most tell-tale statement is on page 11 of Appellant's Brief, beginning on line 6:

“Then, without even mentioning Appellant’s cost evidence, evidence that was stipulated to by the owner and established a value of more than seven million dollars just for the new improvements, the BTA stated that, ‘based upon our review of the record, we find the bases* cited insufficient to support the claimed adjustment to value’.”

With regard to that statement, yes, the owner stipulated the cost, but it did not stipulate value. It stated the cost. There is a difference between cost and value. Carmax’s expert witness appraiser, Michael Moorhead, stated that cost was just one element in determining the value of an improvement.

It must always be remembered that it is evidence that is presented to the BOR and the BTA that establish value. One leg of a three leg stool does suffice, and that was the position taken by the BTA. Throughout this entire procedure, the BOE presented no evidence by way of expert appraisal hoping, I suppose, to boot strap their way.

It should be noted that in BOE’s Interrogatories after the appeal to the BTA, the BOE requested the name of the person to contact for visiting the property and inspecting the building. That person listed by Carmax was myself and I was never requested to set up an inspection for a representative of BOE to examine the premises.

Appellee Carmax’s Argument Contra to Appellant’s Proposition of Law No. 3:

Appellant’s Proposition of Law No. 3 is incorrect. In its Proposition of Law No. 3, Appellant states: “The BTA erred by failing to independently determine the value of the property when the evidence affirmatively negated the Auditor’s value”. Appellant erroneously attempts to shift its failure to present evidence contrary to the values found by the Montgomery County authority. The only expert witness to testify was the Appellee’s and this expert appraiser testified that the value of the real estate given to the property by the Auditor’s valuation method was

*this is probably a typo on the part of the BTA and was to be the word cases

correct. He also cited a recent sale in Montgomery County indicating that large commercial tracts are selling for even lesser amounts than the value given to Carmax's property by the Auditor.

Secondly, that same expert testified that cost of construction is only one of three factors that must be considered in determining the valuation of a relatively new structure. The BOE did not have the improvements appraised and relied solely upon the cost. Carmax's appraiser specifically stated that he, as an expert appraiser, could not give a valuation of the building on the costs alone without considering other factors. There was no evidence offered contra to his testimony.

The valuation process attempts to determine what a willing buyer and a willing seller under no compulsions would pay for a parcel of improved or unimproved real estate. The true value is not contingent upon how much someone paid for the property. Certainly, the Court can take note of the fact that often one will spend more on a structure than they can ever get out of it, while on other occasions, they spend much less than they eventually get out of it. Many factors go into determining the fair market value of property and the improvements thereto. As stated before, this is the BOE's attempt to switch its failure to present any credible evidence to the BTA.

The other arguments that they set forth are simply a rounding up of the "usual suspects". Those arguments as set forth in Appellant's Brief are "rubber stamping", "conflict of interest" and that the BTA "failed to properly consider the evidence". None of these arguments have merit, nor is there any evidence of these happening.

CONCLUSION

For the reasons set forth herein, this Court is respectfully requested to affirm the Decision of the Board of Tax Appeals, reinstating the valuations placed on the property by the Auditor, who is chief financial officer of Montgomery County, Ohio. The re-evaluation of the real estate in this matter came three years after the closing date on the sale of the property of Carmax. It was a result of a triennial re-evaluation by the Auditor of Montgomery County, Ohio.

The value of commercial, and residential property as well, fell greatly during 2007 and the years subsequent thereto as a result of the nationwide economic recession that began in 2008. The commercial real estate market is a volatile market in a free market economy such as that of the United States. This was and is particularly true in Montgomery County, Ohio, where the manufacturing base of the County has all but vanished.

There is a presumption that the County Auditor formed his functions in a proper and legal manner. It takes evidence to overcome this presumption; evidence which the Appellant did not present.

Respectfully submitted,

s/s JOHN R. KOVERMAN, JR.

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Attorney for Appellee, Carmax Auto Superstores, Inc.

CERTIFICATE OF SERVICE

This is to certify that a true copy of Answer Brief of Appellee, Carmax Auto Superstores, Inc, has been served by either facsimile, ordinary U. S. Mail, or via e-mail, this 2nd day of October, 2015, upon the following:

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Commissioner

s/s JOHN R. KOVERMAN, JR.
Attorney for Appellee Carmax Auto Superstores, Inc.

EXHIBIT
APPELLEE
CARMAX AUTO
SUPER STORES
#1

COMPLAINT AGAINST THE VALUATION OF REAL PROPERTY.

ANSWER ALL QUESTIONS AND TYPE OR PRINT ALL INFORMATION
READ INSTRUCTIONS ON BACK BEFORE COMPLETING FORM
ATTACH ADDITIONAL PAGES IF NECESSARY

KARL L. KEITH
AUDITOR

12 MAR -7 PM 2:10

TAX YEAR 2011
COUNTY Montgomery

ORIGINAL COMPLAINT
 COUNTER-COMPLAINT

NOTICES WILL BE SENT ONLY TO THOSE NAMED BELOW	
	Name Street Address, City, State, Zip Code
1) Owner of Property	Carmax Auto Superstores, Inc., Attention Tax Department, 12800 Tuckahoe Creek Parkway, Richmond, VA 23238
2) Complainant if not owner	Board of Education of the West Carrollton City Schools
3) Complainant's agent	Jeff Rich, Mark Gillis, Rich and Gillis Law Group, LLC, 6400 Riverside Dr., Ste. D, Dublin, OH 43017
4) Telephone number of contact person:	(614) 228-5822
5) Complainant's relationship to property if not owner:	Section 5715.19, Ohio Revised Code

If more than one parcel is included, see "Multiple Parcels" on back

6) Parcel number from tax bill	Address of property
See-attached.	See attached.

7) Principal use of property: 400 Commercial-vacant land

8) The increase or decrease in taxable value sought. Counter-complaints supporting the auditor's value may have zero in Column D

Parcel Number	Complainant's Opinion of Value		Column C Current Taxable Value (From Tax Bill)	Column D Change in Taxable Value (+ or -) (Col. B minus Col. C)
	Column A True Value (Fair Market Value)	Column B Taxable Value (35% of Column A)		
See-attached.	5,850,000	2,047,500	1,650,840	396,660

9) The requested change in value is justified for the following reasons:
Recent arm's length sale of subject property for \$5,850,000

10) Was the property sold in the last 3 years? Yes No Unknown . If yes, show date of sale 01/09/2008 and sale price \$5,850,000 and attach information explained in "Instructions for Question 10" on back.

11) If property was not sold but was listed for sale in the last 3 years, attach a copy of listing agreement or other available evidence.

12) If any improvements were completed in the last 3 years, show date N/A and total cost \$ N/A

13) Do you intend to present the testimony or report of a professional appraiser? Yes No Unknown .

14) If you have filed a prior complaint on this parcel since the last reappraisal or update of property values in the county, the reason for the valuation change requested must be one of those below. Please check all that apply and explain on attached sheet. See ORC 5715.19(A)(2) for a complete explanation.

- The property was sold in an arm's length transaction; The property lost value due to a casualty;
- A substantial improvement was added to the property; Property's occupancy changed by at least 15%

I declare under penalties of perjury that this complaint (including any attachments) has been examined by me and to the best of my knowledge and belief is true, correct and complete.

Date 3/5/12 Complainant or agent [Signature] Title (If Agent) Attorney for Complainant
Sworn to and signed in my presence this 5 day of March, 2012.
[Signature] Notary Public, State of Ohio
My Commission Expires 01-18-2016 [Signature] Notary Public

