

IN THE STATE OF OHIO
BOARD OF TAX APPEALS
COLUMBUS, OHIO

Charles and Susan Johnston Trustee)	CASE NO.: 2024-532
)	
Appellant,)	
)	
vs.)	
)	
ASHTABULA COUNTY BOARD OF)	<u>NOTICE OF INTENT TO</u>
REVISION, et al.)	<u>STAND ON THE RECORD</u>
Appellees.)	<u>AND BRIEF IN SUPPORT</u>
<hr/>)	

Now comes the Appellees, Ashtabula County Board of Revision, by and through its attorney and hereby stands on its decision that the true value of PPN: 29-007-00-012-00 (hereinafter referred to as the "subject property") shall remain at \$350,400.00 and thus no change from its assessment for the statutory lien date January 1, 2023.

In support of its decision, the Appellee states that it has reviewed the properties in question first hand, the testimony elicited from the Appellant at the hearing before it, and the Summary Appraisal Report submitted as evidence by the Appellant. It is its opinion that the true fair market value of \$350,400.00 as of January 1, 2023 for the parcel that forms the basis for the appeal is supportable both by fact and evidence.

It is the burden on the Appellant Taxpayer who has asserted a right to a decrease in the value of the subject property to prove that the property is incorrectly valued by the appellee. **Cleveland Bd. of Education. v. Cuyahoga Cty. Bd. Of Revision,** (1994), 68 Ohio St. 3d 336; **Crow v. Cuyahoga Cty. Bd. Of Revision,** (1990), 50 Ohio St. 3d 55. It is further incumbent upon the appellant who is challenging the Ashtabula County Board of Revision's ruling to offer evidence demonstrating its right to the value sought by it. **Springfield Local Bd. Of Education. v. Summit Cty. Bd. Of Revision,** (1994), 68 Ohio St. 3d 493. This can be established by two (2) different forms of proof.

The first and best evidence of value would be a sale by an arms-length transaction with a close enough proximately in time to the statutory lien date of January 1, 2023. **Conalco v. Bd. Of Revision,** (1977), 50 Ohio St.2d 129. The Supreme Court has addressed the best method of determining value and has found that it is an actual sale "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". **State ex rel. Park Investment Co. v. Bd. of Tax Appeals,** (1964), 175 Ohio St. 410. In this particular case the subject property was not as a result of a recent sale, so this analysis is inapplicable to the instant appeal.

Absent a recent sale, the second method of establishing fair market value would be through an appraisal by an Ohio licensed appraiser that would invariably support the Appellant's requested value through three alternative methods provided for in Ohio Administrative Code 5705-3-03: a market data approach, which compares recent sales of comparable properties, income approach, which capitalized the net income derived from the property, or cost approach, which depreciates the value of the improvements to the land and then adds them to the land value. The income and costs approaches would not be appropriate in the case. A market approach emphasizing comparable sales would as a result be the best method.

In the instant case, the Appellant offered an Appraisal in support of his opinion of value. The appraisal relies on the Sales Comparison Approach. The appraiser, however, was not in attendance at said hearing. This Board has held in prior cases that the inability on the part of the Board of Revision when the author of the appraisal is not present to assess the appraisers' qualifications and creditability and the failure to have documents authenticated, constitutes hearsay upon which the Board of Tax Appeals may not rely in reaching a decision. See **Evenson v. Erie Cty. Bd. Of Revision**, (Apr. 12, 2002), BTA No. 2001-V-770, unreported. There is further a fundamental

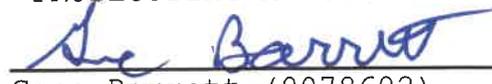
proposition that “[a]n expert’s opinion of value in a tax valuation case is of little help to the trier of fact if the expert does not explain the basis for the opinion.” Freshwater v. Belmont Cty. Bd. Of Revision, (1997), 80 Ohio St.3d 26, 30.

Finally, the expert report in this case was dated as of November 27, 2017 and signed by the appraiser December 04, 2017. The tax lien year in this case is January 1, 2023.

In summary, the Appellant has not met his burden in establishing that the subject property was incorrectly valued by the Ashtabula County Auditor. He has further failed to establish through evidence, testimony or other means a right to the value sought in its Complaint against the Valuation of the subject property from the Ashtabula County Board of Revision’s decision regarding said Complaint. For the foregoing reasons the Appellee, Ashtabula County Board of Revision respectfully stands on the record and request that this Honorable Court deny this appeal.

Respectfully Submitted,
Colleen M. O’Toole
PROSECUTING ATTORNEY

By,


Gene Barrett (0078602)
Assistant Prosecutor
25 West Jefferson Street
Jefferson, OH 44047
(440) 576-3734

CERTIFICATE OF SERVICE

I, Gene Barrett, do certify that a true and correct copy of the foregoing Appellees' Notice of Intent to Stand on the Record and Brief in Support was sent by Regular U.S. Mail, Postage prepaid, to all parties, defendants, or their counsel of record on this date to the following:

Charles and Susan Johnston Trustees
2042 Stumpville Rd.
Jefferson, OH 44047

DATED: August 20, 2024

By: 
Gene Barrett (0078602)
Assistant Prosecutor
25 West Jefferson Street
Jefferson, OH 44047
(440) 576-3734



Ashtabula County Auditor David Thomas

25 West Jefferson Street
Jefferson, Ohio 44047-1092
Phone: 440-576-3783 ~ Fax: 440-576-3797
auditor@ashtabulacountyauditor.org

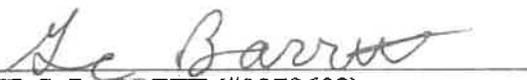
Ohio Board of Tax Appeals
30 East Broad Street
Columbus, OH 43215

RE: Waiver of appearance

This letter serves as notice of Ashtabula County waiver of appearance and intention to stand on the record for the following hearing:

2024-532 Charles and Susan Johnston Trustee

Respectfully submitted,
COLLEEN O'TOOLE (#0053652)
PROSECUTING ATTORNEY

By, 
GENE C. BARRETT (#0078602)
Assistant Prosecutor
Attorney for the Ashtabula
County Board of Revision
25 West Jefferson St.
Jefferson, OH 44047
(440) 576-3734

CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing Waiver of Appearance was served by regular U.S. mail, postage prepaid, or by hand on this date to the following:

Charles and Susan Johnston Trustees
2042 Stumpville Road
Jefferson, Ohio 44047

Dated: August 20, 2024

By,



GENE C. BARRETT (78602)
Assistant Prosecutor
25 West Jefferson Street
Jefferson, Ohio 44047
(440) 576-3674