

COURT OF APPEALS  
DELAWARE COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

MEDALLION GROUP, LTD.

Plaintiff-Appellant

-vs-

DELAWARE COUNTY BOARD OF  
REVISION, ET. AL.

Defendant-Appellees

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. Sheila G. Farmer, J.

Hon. Julie A. Edwards, J.

Case No. 07CAH02011

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Delaware County Court of  
Common Pleas, on appeal from Ohio Board  
of Tax Appeals BTA Case No's.  
2004-A-1202, and 2004-A-1203

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

October 8, 2007

APPEARANCES:

For Appellant  
Medallion Group, Ltd.

For Appellees  
Delaware County Board of Revision

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*Hoffman, P.J.*

{¶1} Appellant Medallion Group, Ltd. appeals the January 19, 2007 Decision and Order of the Ohio Board of Tax Appeals, which approved and adopted the value of real property owned by Medallion Group as determined by the Delaware County Auditor and approved by the Delaware County Board of Revision for the tax year 2003. Appellee is the Delaware County Board of Revision, et al.

#### STATEMENT OF THE FACTS AND CASE

{¶2} Medallion Group, a private for-profit entity, owns real property located in Genoa Township, Delaware County, Ohio, which houses the Medallion Golf Course and Country Club (“the Club”). The Club is a private country club facility situated on approximately 361 acres. The facility includes a 27 hole championship golf course, a 58,000 square foot clubhouse, and a swim and tennis complex. A pro shop, a 12,000 square foot fitness center, and a large banquet facility occupy part of the clubhouse. The clubhouse, which opened in 1995, cost \$14 million to build. The actual construction cost of the golf course and building improvements was \$28 million. The total cost of the property, including the land acquisition cost, was \$32 million. Medallion Group leases the property to the Medallion Club Limited Partnership.

{¶3} The Delaware County Auditor, for the 2003 tax year, set a tax value of \$16,100,300 for the property, representing one-half of the actual cost of the property with all its improvements. Medallion Group filed complaints with the Delaware County Board of Revision, seeking a decrease in the Auditor’s value. The Board of Education of the Westerville City School District filed a counter complaint, seeking to retain the Auditor’s value in regards to parcels located in its taxing district. The Board of Revision

upheld the Auditor's determination. Medallion Group appealed to the Ohio Board of Tax Appeals. The BTA conducted a hearing on the matter on August 16, 2005, and November 2, 2005.

{¶4} Wendell McCurdy, the Chief Financial Officer and Treasurer of both Medallion Group and the Medallion Club Limited Partnership, provided a history of the Club, beginning with its original conception in 1991. When McCurdy began his employment in early 1998, he determined the Club was suffering financially and the only way it could probably be saved was by hiring a professional management company. As a result, Plus Fore Management was hired to reorganize the accounting and the infrastructure of the Club as well as address and correct member concerns and problems.

{¶5} James Spragg, President and CEO of Plus Fore Management, testified his company was hired to assist in reorganizing the operations of the Club. Spragg reviewed all of the Club's personnel in order to determine the necessity of each position. Spragg explained the golf course memberships are the "drivers" of the Club's revenues. He detailed the fee structure utilized by the Club. From its inception, the Club sold "vested initiation fees" for both golf and social memberships. After five years of membership, the member became vested and was entitled to repayment of the initiation fee at the end of thirty years or upon the member's resignation. Spragg stated the vested memberships sold for \$10,000 to \$27,500, based upon the current market. At the time of the hearing, the Club's liability for the vested initiation fees was \$3.2 million. The Club discontinued vested memberships after 1999.

{¶6} Spragg added the Club offers non-refundable golf memberships for \$15,000, as well as a \$25,000 corporate golf memberships, of which 50% of the initiation fee is refunded upon a member's resignation or replacement. The Club also offers a "callable membership" which sells for \$7,500 and guarantees membership for two years. After the expiration of the two years, the Club can "call" the membership and either refund the original membership cost to the member or apply the fee to a non-refundable membership. Different fees were associated with the various types of memberships, and the amount of the fees varied over the years.

{¶7} Spragg testified the three largest revenue areas for the Club are membership dues, golf sales, and food and beverage sales. Because the Club was built on wetlands, environmental "handling" concerns resulted in the expenses associated with building the facility to be greater than the norm. Likewise, the level of amenities incorporated into the Club also increased the expense of building the facility. The Club, as stated, supra, leases the facility from Medallion Group for \$650,000/year. Spragg noted the Club is not always able to make the lease payments as a result of cash flow problems. An oral offer of \$6 million was made for the purchase of the facility, however, ownership would not consider such an amount.

{¶8} James A. Powers, a certified general real estate appraiser, performed an appraisal on behalf of Medallion Group. Powers discussed the general and specific markets/neighborhoods of the Club, including the immediate neighborhood. Powers considered the immediate neighborhood vibrant and opined such would remain a benefit to the Club for many years. In conducting his analysis, Powers undertook a review of the national and local golf markets. Locally, the construction of several new

private golf courses had generated excess capacity for the area, i.e., the supply outpaced the demand. Powers also analyzed the physical attributes of the course, as well as the design, location, and financial attributes. Powers concluded the Club is “perceived to be an elite club by local golfers, and one that offers a challenging overall golfing experience.” According to Powers, the property’s highest and best use, if vacant, “would be for development of the subject golf course facility”; and, as improved, would be “the continuation of the use as a golf course, operating as a private country club.”

**{¶19}** The appraisal report prepared by Powers addressed the three accepted methods of valuing property: the income approach, the sales approach, and the cost approach. Powers’ primary emphasis was on the income approach, with less weight given to the sales approach, and no weight given to the cost approach. Powers’ final reconciled opinion of the value of the subject was \$8,600,000, as of the tax lien date.

**{¶10}** Using the income approach, Powers calculated the operational revenue by estimating the revenue from annual membership fees, membership dues, pro shop sales, food and beverage sales, and other miscellaneous revenues. He estimated operating expenses based upon an analysis of the past operating expenses of the Club, operating expenses of similar properties, and industry averages; and estimated the net annual cash flow by deducting the estimated operating expenses from the estimated gross revenue. Powers then estimated the capitalization rate and capitalized the stabilized year’s net annual cash flow in order to estimate the market value. Powers indicated the income should be based primarily on annual membership dues and fees;

pro shop, swim, tennis and fitness club revenues; banquet and catering revenues; and grill and concession revenues.

**{¶11}** Powers adjusted the overall income figure for a stabilized initiation refund expense to reflect the refunds on membership fees which occurred on an annual basis. From his estimated income of \$5,950,946, Powers deducted estimated expenses of \$4,800,000, which included insurance, taxes, administrative, management, marketing and maintenance fees, and expenses to operate both the pro shop, and the food and beverage services. Powers ultimately derived a capitalized value for the Club of \$8,900,000, from which he deducted \$349,000 for personal property, arriving at a value of \$8,600,000.

**{¶12}** Powers next valued the Club using the sales comparison approach. Powers considered five golf course sales, four in Ohio and one in Kentucky, which he believed were “the best representations of golf course sales for this region.” The sales Powers relied upon occurred between December, 1998, and August, 2003, and ranged in price from \$3,000,000 to \$6,100,000. Comparing these sales to the Club, Powers adjusted for differences such as attributes, location, hazards, and amenities. After deducting the value of personal property, Powers’ value, using the sales comparison approach, ranged from \$7,800,000 to \$8,400,000.

**{¶13}** Powers explained he did not utilize the cost approach in developing his appraisal because of the age of the subject improvements and the fact the course was originally developed as part of a planned residential development, thereby providing locational attributes for the adjacent housing development. Accordingly, Powers

concluded the cost to develop the Club should not be considered as a “stand alone” basis of valuation.

{¶14} Appellees did not offer any evidence of the value of the subject. Appellees primarily relied upon their cross-examination of the Medallion Group’s witnesses to discredit the value offered.

{¶15} Following the presentation of evidence, the BTA examiner established a briefing schedule. The BTA issued its Decision and Order on January 19, 2007. The BTA affirmed the value established by the Delaware County Auditor, finding the appraisal provided by Medallion Group’s expert did not constitute substantive, probative and credible evidence of the subject’s value for the 2003 tax year.

{¶16} It is from this Decision and Order Medallion Group appeals, raising the following assignments of error:

{¶17} “I. THE BTA ERRED IN ADOPTING THE VALUE SET FORTH IN THE DELAWARE COUNTY AUDITOR’S SUMMARY, COST-METHOD APPRAISAL.

{¶18} “II. THE BTA’S CONCLUSION THAT THE APPELLANT DID NOT COME FORWARD WITH SUFFICIENT, COMPETENT AND PROBATIVE EVIDENCE OF THE VALUE SUCH THAT THE APPELLEES HAD AN EQUIVALENT BURDEN TO INTRODUCE INDEPENDENT, COMPETENT AND PROBATIVE EVIDENCE OF VALUE IS IN ERROR AND AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE IN THE RECORD.”

I, II

{¶19} Because Medallion Group’s two assignments of error require similar analysis, we shall address said assignments of error together. In its first assignment of

error, Medallion Group contends the BTA erred in adopting the value established by the Delaware County Auditor, utilizing a cost method appraisal. In its second assignment of error, Medallion Group maintains the BTA's conclusion Medallion Group failed to come forward with sufficient, competent and probative evidence of the value was erroneous and against the manifest weight of the evidence.

{¶20} This Court is not a super BTA or a trier of fact de novo. *Youngstown Sheet & Tube Co. v. Mahoning Cty. Bd. of Revision* (1981), 66 Ohio St.2d 398, 400, 20 O.O.3d 349, 422 N.E.2d 846. "The fair market value of property for tax purposes is a question of fact, the determination of which is primarily within the province of the taxing authorities, and this court will not disturb a decision of the Board of Tax Appeals with respect to such valuation unless it affirmatively appears from the record that such decision is unreasonable or unlawful." *Cuyahoga Cty. Bd. of Revision v. Fodor* (1968), 15 Ohio St.2d 52, 44 O.O.2d 30, 239 N.E.2d 25, syllabus.

{¶21} A significant portion of Medallion Group's argument is directed toward the BTA's adoption, "by default", of the Delaware County's Auditor's value using the cost method appraisal. Medallion Group contends such approach was not appropriate for valuing the Club. We disagree. There are various methods of evaluation and the fact Medallion Group disagrees with the appropriateness of using the cost approach, such method is, nonetheless, acceptable. As the Ohio Supreme Court stated in *State, ex rel Park Investment Co. v. Board of Tax Appeals* (1964), 175 Ohio St. 410, no matter what method of evaluation is used, the ultimate result of such an appraisal must be to determine the amount which such property should bring if sold on the open market." *Id.* at 412.



{¶22} In the instant action, the BTA rejected Powers' appraisal, finding the use of the income approach for a subject described as "unique" did not provide an evaluation representative of the general state of the market for private country clubs. Further, Powers' appraisal did not include the value of existing memberships, and, in fact, the appraiser gave a number of reasons why that value should not be included in the total value of the entire property. Where a party relies upon an appraiser's opinion of value, the BTA may accept all, part, or none of the appraiser's opinions. *Witt Co. v. Hamilton City Bd. of Revision* (1991), 61 Ohio St.3d 155. Apparently, the BTA rejected Powers' arguments.

{¶23} "For real property tax purposes, the fee simple estate is to be valued as if it were unencumbered." *Alliance Towers, Ltd v. Stark County Bd. of Revision* (1988), 37 Ohio St.3d 16, ¶1 of the syllabus. If Medallion Group sold the Club at Powers' appraised price of \$8,600,000, the purchaser would take the property subject to all of the rights and privileges of the existing membership. As Powers' appraisal did not include the value of the existing memberships, the price a purchaser would pay for the property would not reflect the true value. "Real Property" is defined as "land itself, \* \* \* all buildings, structures, improvements, and fixtures of whatever kind on the land, and all rights and privileges belonging or appertaining thereto." R.C. 5701.02(A). Without including the value of the memberships, the true value of the property could not be determined. Powers used only the annual net operating income stream, i.e. the annual profits from the property, in determining the value. We do not find the BTA's concerns

over Powers' income approach were not supported by substantive, probative or credible evidence.

{¶24} Medallion Group further contends the BTA's use of the Auditor's value was error. Having found the evidence submitted by Medallion Group did not provide a reliable or credible valuation, in the absence of any other evidence of value from which the BTA could independently determine the value, the BTA had the authority to approve the Board of Revision's value without the Board's presentation of evidence. See, *Simmons v. Cuyahoga County Bd. of Revision* (1998) 81 Ohio St.3d 47, 49. "In the absence of probative evidence of a lower value, \* \* \*, the BTA [is] justified in fixing the value at the amount assessed by the County Auditor." *Salem Medical Arts and Dev. Corp. v. Columbiana County Bd. of Revision*, 82 Ohio St.3d 193, 195, 1998-Ohio-248.

{¶25} Furthermore, the BTA properly rejected Powers use of comparables. Powers presented an extremely limited number of comparable sales. Powers did not make any adjustments for the differences in those sales, e.g., age of facility or nature of sale, compared to the Club. The Ohio Supreme Court has recognized the BTA has appropriate reason to question the testimony of an expert witness as a result of a lack of in-depth analysis of comparable facilities. See, *National Church Residence v. Licking County Bd. of Revision* (1995), 73 Ohio St.3d 397, 398, 399.

{¶26} Based upon the foregoing, we find the BTA properly exercised its discretion in determining the credibility of the witnesses and the weight to be given to the evidence. Given the unanswered questions surrounding the approaches offered by Powers, we find the BTA did not abuse its discretion.

{¶27} Medallion Group's first and second assignments of error are overruled.

**{¶28}** The judgment of the Ohio Board of Tax Appeals is affirmed.

By: Hoffman, P.J.

Farmer, J. and

Edwards, J. concur

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HON. WILLIAM B. HOFFMAN

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HON. SHEILA G. FARMER

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HON. JULIE A. EDWARDS

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JUDGMENT ENTRY

Case No. 07CAH02011

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Ohio Board of Tax Appeals is affirmed. Costs assessed to Appellant.

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HON. WILLIAM B. HOFFMAN

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HON. SHEILA G. FARMER

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HON. JULIE A. EDWARDS