

[Cite as *Weiler v. Cuyahoga Cty. Bd. of Revision*, 2015-Ohio-1383.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 101822

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**SUSAN K. WEILER, TRUSTEE, ETC.**

PLAINTIFF-APPELLANT

vs.

**CUYAHOGA COUNTY BOARD OF REVISION,  
ET AL.**

DEFENDANTS-APPELLEES

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**JUDGMENT:  
AFFIRMED**

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Civil Appeal from the  
Ohio Board of Tax Appeals  
Case No. 2013-4429

**BEFORE:** Keough, P.J., E.A. Gallagher, J, and Stewart, J.

**RELEASED AND JOURNALIZED:** April 9, 2015

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KATHLEEN ANN KEOUGH, P.J.:

{¶1} Appellant, Susan K. Weiler, Trustee of the S.K. Weiler Living Trust Dated December 18, 1989, As Amended (“Weiler”), appeals the decision of the Ohio Board of Tax Appeals (“BTA”), which affirmed the decision of the Cuyahoga County Board of Revision (“BOR”) denying a change in value for real property owned by Weiler. For the reasons that follow, we affirm.

{¶2} Weiler filed a complaint with the BOR regarding permanent parcel number 821-22-059 seeking a reduction in the property value for real estate tax purposes for the tax year 2012. The county fiscal officer valued the property at \$284,000, and Weiler sought a reduction in value to \$255,000.

{¶3} The BOR conducted a hearing on Weiler’s complaint on September 3, 2013. Appearing before the BOR was attorney Jeffry Weiler who testified that the subject property is part of a development where all the homes are very similar to each other. He argued that because homes in the development were selling for lower prices, the subject property was overvalued. In support, Attorney Weiler presented a spreadsheet with a list of comparable sales in the past years. He admitted to the BOR that the subject property had not been recently reappraised and no photographs of the subject property were available for review.

{¶4} The BOR rejected Weiler’s request for a decrease in value, affirming the fiscal officer’s original valuation. According to the BOR, its “decision was based on either[:] insufficient evidence, evidence didn’t support a value change, testimony didn’t

support opinion of value, taxpayer and or witness could not be cross-examined.” Weiler appealed this decision to the BTA.

{¶5} On April 24, 2014, the BTA conducted a hearing on Weiler’s appeal. Susan Weiler appeared before the BTA and testified that it was her opinion that the subject property for the tax year 2012 should be valued at \$255,000. In support, she referenced the same documentation that was presented to the BOR, including the comparable sales spreadsheet and county auditor records. Weiler testified that the subject property was similar to the other homes in the development, except the subject property does not have a golf course view which, in her opinion, negatively affected the value of the property.

{¶6} The BTA affirmed the decision of the BOR finding that insufficient independent evidence was presented to support the requested adjustment. The BTA maintained the original estate tax value of \$284,000.

{¶7} Weiler appeals asserting as her sole assignment of error that the BTA erred in affirming the decision of the BOR. Specifically, Weiler contends that the BTA’s decision is not supported by any probative evidence of the record, is against the manifest weight of the evidence, and therefore is unreasonable or unlawful.

{¶8} “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 \* \* \* .” *Cuyahoga Cty. Bd. of Revision v. Fodor*, 15 Ohio St.2d 52, 239 N.E.2d 25 (1968), syllabus. An appellate court reviews a decision of the BTA to determine whether it is

reasonable and lawful. R.C. 5717.04. Therefore, an appellate court will defer to the BTA's determinations of factual issues where those decisions are supported in the record by reliable and probative evidence. *Gides v. Cuyahoga Cty. Bd. of Revision*, 8th Dist. Cuyahoga No. 100830, 2014-Ohio-4086, ¶ 3, citing *Strongsville Bd. of Edn. v. Wilkins*, 108 Ohio St.3d 115, 2006-Ohio-248, 841 N.E.2d 303, ¶ 7. The party seeking the change in value bears the burden of demonstrating a valuation different from the currently assessed value. *Bd. of Edn. of the Columbus City School Dist. v. Franklin Cty. Bd. of Revision*, 90 Ohio St.3d 564, 566, 2001-Ohio-16, 740 N.E.2d 276. "In the absence of supporting evidence, the valuation adduced by the taxing authority will be maintained." *Gides*.

{¶9} In this case, Weiler maintains that the BTA did not consider her undisputed opinion testimony when it affirmed the decision of the BOR. While an owner may testify as to the value of the subject property, "there is no requirement that the fact finder accept that value as the true value of the property." *WJJK Invests., Inc. v. Licking Cty. Bd. of Revision*, 76 Ohio St.3d 29, 32, 665 N.E.2d 1111 (1996), citing *Amsdell v. Cuyahoga Cty. Bd. of Revision*, 69 Ohio St.3d 572, 635 N.E.2d 11 (1994). Therefore, because the BTA as the finder of fact has "wide discretion in granting weight to evidence and credibility to witnesses," we will not reverse the BTA's determination of evidentiary weight and credibility "unless we find an abuse of this discretion." *Natl. Church Residence v. Licking Cty. Bd. of Revision*, 73 Ohio St.3d 397, 398, 653 N.E.2d 240 (1995).

{¶10} As the BTA pointed out, “the 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*, 175 Ohio St. 410, 412, 195 N.E.2d 908 (1964).

{¶11} In this case, Weiler did not present any evidence of a recent transfer or an appraisal of the subject property. Rather, Weiler relied on self-proclaimed comparable sales and her opinion as to the value of the subject property based on those sales. The BTA determined that this evidence was insufficient, finding:

[w]hen boards of revision and this board are presented with nothing more than lists of raw sales data, assessed values of other properties, unauthenticated “opinions of value” developed using unconfirmed Internet/software packages, appraisal submitted without expert testimony which are undertaken for purposes other than tax valuation often concluding to values for dates other than the tax lien date in issue, a trier of fact is left to speculate how common differences, e.g. location, size, quality of construction of improvements, nature of amenities, date of sale as opposed to tax lien date, etc., may affect a valuation determination.

{¶12} We recognize that an independent appraisal may be financially burdensome on some homeowners who seek a reduction in the property value for real estate tax purposes. In those cases, it appears that homeowners may still be able to withstand their burden of proving a reduction by presenting the BOR with comparable sales, corresponding real estate listings, and photographs, which would tend to show those common differences that the BTA discussed above in rendering its decision.

{¶13} However, based on the foregoing and the record before this court, we find no abuse of discretion in the BTA's rejection of Weiler's opinion of value. Furthermore, the BTA's decision affirming the BOR's decision was lawful and not unreasonable based on the evidence presented. Weiler's assignment of error is overruled.

{¶14} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to the Ohio Board of Tax Appeals to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

KATHLEEN ANN KEOUGH, PRESIDING JUDGE

EILEEN A. GALLAGHER, J., and  
MELODY J. STEWART, J., CONCUR