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FREQUENTLY ASKED QUESTIONS ABOUT REAL ESTATE VALUATION [TAX] APPEALS

1. What are the most common grounds for challenging the County Auditor's value of my property?

Whenever the true market value of real estate has fallen below the County Auditor's value determination, the property owner should consider filing an appeal in order to reduce the property's value and the amount of real estate taxes paid.

Common situations that may lead to the filing of a tax appeal include:

- Declining Property Values
- Lowering of Tenant Credit Standards
- Increased Vacancies
- Costs of Tenant Improvements
- Higher Rent Concessions
- Economic/Functional Obsolescence

2. When can a Complaint Against the Valuation of Real Property be filed?

Complaints may be filed with the local Board of Revision between late December through and including March 31st of the ensuing calendar year. If not filed by March 31st, the property owner forfeits the right to challenge the property's valuation for the prior tax year.¹

The Complaint form must be filled out completely and be signed by the complainant or the complainant's attorney in the presence of a Notary Public.

¹ When March 31st falls on a Saturday, Sunday or legal holiday, the statutory deadline is extended to the next business day.

Complaints that are filed after March 31st, those that are incorrectly or incompletely filed out, or which are not notarized are all subject to dismissal.

3. Who can file a Complaint Against the Valuation of Real Property?

Any person or entity that owns taxable real property in the county, the Board of County Commissioners, the County Prosecutor, the County Treasurer, the trustee of a trust, an officer of a corporation, a member of a limited liability company, or a partner in a partnership can file a Complaint. In addition, the Board of Education, the Mayor or legislative authority of any municipal corporation within any territory in the county may file a Complaint. While extensive, the above list is not exhaustive.

Keep in mind that once the property owner initiates a tax appeal, this opens up the door for the local school district to file a Counter-Complaint seeking to raise the property's value. Performing a careful analysis of the property's value before filing a Complaint Against the Valuation of Real Property can minimize this risk.

The BOR is statutorily required to notify the school district whenever a property owner seeks to have the true market value of a property reduced by \$50,000 or more (which equates to a \$17,500 reduction in assessed value).

Typically, the school district will ask that there be no change in value, i.e., that the County Auditor's original value be left unchanged. Upon the filing of a "zero change" Counter-Complaint,

the school district becomes a full participant in the BOR hearing process entitling it to: (i) receive notices of all hearings; (ii) attend the hearings, (iii) cross-examine the property owner's witnesses, (iv) call its own witnesses at the hearing, and (v) proffer its own valuation evidence.

4. Do I need to hire an attorney to handle the valuation [tax] appeal?

It is strongly recommended that property owners engage an attorney to represent their interests in these types of cases, even if not legally required.

As a practical matter, an attorney is more experienced in navigating the complex laws, procedures, and policies of the county Boards of Revision. Additionally, when the local school district files its complaint or counter-complaint in your case, it will be represented by an attorney. The property owner being represented by an attorney places the property owner on equal footing with all those who oppose his/her claimed value.

A property owner who is represented by **Bluestone Law Group** benefits from over 14 years of experience in which we have saved our clients millions of dollars in real estate taxes. We have a tremendous familiarity with the Board of Revision rules and procedures. Moreover, **Bluestone Law Group** has worked with many of the attorneys who represent the local school districts. This experience and knowledge furthers your goal of reducing your tax bills.

5. How is the amount of real estate taxes assessed against my property determined by the County?

Your actual tax bill depends on two (2) factors: (i) the County Auditor's estimation of your property's market value and (ii) the tax rate that is largely determined by the community voting process.

Expressed as an algebraic formula, the amount of taxes you pay would be determined as follows:

$$\text{Market Value} \times .35 = \text{Assessed/Taxable Value}$$

$$\text{Assessed/Taxable Value} \div \$1,000 = \text{Adjusted Taxable Value}$$

$$\text{Adjusted Taxable Value} \times \text{Effective Tax Rate} = \text{Gross Taxes Assessed}$$

Taxes assessed on residential properties are then further reduced by a ten percent (10%) statutory rollback and, if the property is used as the owner's primary residence on the tax lien date, then by a further two and one-half percent (2.5%) rollback.

So, the owner of a home that has a \$100,000 market value, who lives in the house as his primary residence, in a taxing district having an effective tax rate of, say, 23.456789 would pay \$718.37 in real estate taxes annually as shown in the following calculation:

$$\begin{aligned} \$100,000 \times .35 &= \$35,000 \\ \$35,000 \div \$1,000 &= \$35 \\ \$35 \times 23.456789 &= \$820.987615. \\ \$820.987615 \times .875 &= 718.364163 \\ &\text{rounded up to } \$718.37.^2 \end{aligned}$$

Owners should also keep in mind the homestead exemption and the current agricultural use valuation programs both of which will lower the property's value and/or taxes assessed.

6. What is the definition of "Market Value?"

The most probable price, as of a specified date, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

7. Who determines the market value of my property?

The Auditor's assignment is to determine the property's "market value." Truth be told, the assessment process is subjective. He or she

² If the home was not the property owner's primary residence at the tax lien date, then the 2.5% rollback will not apply, and the tax would be \$738.89.

can value a property based upon a number of factors including:

- ◆ the land value plus the cost of constructing the building and site improvements less a depreciation factor;
- ◆ sale price of similar properties in the area, with adjustments for differences in acreage or square footage of the building, topography, age of the building and other improvements, quality of construction, amenities, superiority or inferiority of the location of the comparable site versus the subject property usefulness, and the amount of time that has lapsed between the date of sale of the comparable property and the relevant tax lien date, etc.;
- ◆ the estimated operating income to be derived from the subject property (using market rents, expenses, and vacancy factor) which is then capitalized (using a market capitalization rate); or
- ◆ a recent arms-length sale of the subject property itself.

8. What appraisal processes are utilized to determine market value?

Under Ohio law, each County Auditor is charged with actually viewing and appraising each lot or parcel of real estate, including any buildings or site improvements, at its true value in money (or estimated fair market value) at least once every six (6) years. Properties can be “viewed” either by a physical inspection of the actual site or by using some rather amazing computer technology resources. In between sexennial reappraisals, the Auditor is required to update property values by percentage increases or decreases reflective of market activity in the county or particular areas of the county over the past three years. Thus, adjustments to property values occur in Ohio every three (3) years – with the largest adjustments normally occurring in the sexennial appraisal year, and smaller changes taking effect in the update year. For your convenience, a chart showing when the reappraisal and update process takes place in each Ohio county appears at the end of this pamphlet.

In other years, the County Auditor may adjust property values due to such factors as: (i) an

improvement having been added to the property, e.g., expansion of an existing building or construction of a new one; (ii) the building or site improvements having been damaged or destroyed, e.g., as a result of fire, earthquake, windstorm, or flooding; (iii) the property having been sold; and (iv) when a change of use occurs, e.g., conversion of farm land to residential or commercial purposes.

In order to meet the statutory burden of appraising tens of thousands of individual parcels, the County Auditor engages in a “mass appraisal” process. Taxing authorities frequently do not have sufficient in-house resources to complete the job alone. In many counties, the Auditor out-sources the job.

In Ohio, the common level of assessment for real estate, i.e., its taxable value is presently 35% of its appraised (market) value. When reviewing County Auditor web sites, the viewer must take care to determine whether the values shown are appraised (market, true or 100%) values or assessed (taxable or 35%) values.

The key date for real estate tax purposes is January 1st of each year, which is referred to as the tax lien date.

Once the County Auditor has determined a property’s value for the current tax year, this value is reported on the Auditor’s tax list as well as on the County Treasurer’s tax duplicate.

9. What are the three (3) generally accepted approaches to determine the “market value” of a property?

Cost Approach

The cost approach involves: (i) making an estimate of the cost of replacing the building and site improvements. Reproduction cost refers to the cost at a given point in time of reproducing a replica property; whereas replacement cost refers to the cost of recreating improvements of equal utility; (ii) deducting any depreciation for loss in value caused by physical deterioration and functional or economic obsolescence; and finally (iii) adding the estimated land value,

resulting in an indication of value derived by the cost approach.

The cost approach is significant because it is the one approach that can be applied on all types of construction. It is a starting point for appraisers and, therefore, a very effective yardstick in any equalization program for *ad valorem* taxes. The widest application of the cost approach is in the appraisal of property where the lack of adequate sales comparables and income data preclude the reasonable application of the other traditional approaches.

On the other hand, the older the building and site improvements are, the harder it becomes to calculate their depreciation value. Thus, the cost approach may not be the best indication of value when the buildings and site improvements are more than ten (10) years old.

Income Capitalization Approach

This is the most highly relied upon approach in the appraisal of commercial property. Its strength is the ability to measure a property's value based on the property's ability to generate and maintain a stream of income for the owner. To be effective, this method requires the appraiser to have the ability to gather basic information, to analyze the income yields in terms of their relative quality and durability, and to relate all of the information gathered and analyzed to the changing economic environment of the area being studied. This approach lends itself best to the appraisal of commercial or industrial property because prospective buyers are primarily interested in the potential net return and tax shelter the property will provide them. Investors justify the purchase price by pre-calculating the prospects of the net return from their investment in the property.

This approach is most frequently applied to properties bought and sold for their ability to generate and maintain a stream of income for their owners. The effectiveness of the income capitalization approach lies in the appraiser's ability to relate to the changing economic

environment and to analyze income yields in terms of their relative quality and durability.

Sales Comparison Approach

The sales comparison approach involves the compiling and comparison of sales information and relating it to the property being appraised. The appraiser must use sound judgment to make adjustments for dissimilarities between the property being appraised and the comparable properties. For commercial and industrial properties, this approach works best for vacant land. It can be used for appraising improved properties only when the properties are truly comparable in construction and use.

The appraiser must analyze the selling prices of comparable properties and consider the same factors a buyer considers: location, size, quality, design, age, condition, desirability, and usefulness.

10. How is agricultural land valued?

The appraiser must rely heavily upon prices being paid for comparable farmland in the community and use the market data approach. When determining the land's productive capabilities, the land must be divided into various classes according to specific types and uses: tillable, pasture, woodland, and wasteland. The appraiser may then compute the acreage and value for each class individually or compute an aggregate price per acre that includes the amount and type of each class. The appraiser must consider soil types and each soil type's fertility and make an effort to use soil and land maps that are available through agriculture extension services and state universities.

The appraiser must also take into account the buildings on an agricultural property. Since the main purpose for a rural dwelling (like an urban dwelling) is to provide a family with a home, the appraiser should value a rural dwelling in the same way he values any other residence, with the market data approach.

The appraiser's approach to other farm buildings, however, must be somewhat different.

When appraising farm buildings, the appraiser's primary objective is to arrive at the value that the building's presence adds to the land's productivity and the building's degree of usefulness.

The appraiser must equally consider all other factors that affect property value, such as the property's location relative to the marketplace, the property's relative accessibility, the topography of the land, the shape and size of the fields, the existence and condition of the fences, drainage, water supply, etc.

In terms of farm land, issues that the BOR considers include: is the market value (not the CAUV value) correct, and has the property been improperly included or excluded from the CAUV program.

11. The Board of Revision – Who sits on the panel, and what is its role in the valuation process?

Each County has a Board of Revision having three (3) members:

- the County Auditor
- the County Treasurer
- the President of the County Commissioners

These County officials have the right to appoint someone on their behalf to hear and decide cases coming before the Board of Revision. Generally speaking, the actual office holders sit on the Board of Revision in smaller and more rural counties, while in the eight (8) metropolitan counties, appointees carry out the functions of the Board of Revision.³

Franklin County has three (3) BOR panels—each morning, one panel hears cases involving residential homes, while another hears cases involving commercial, industrial, and complex cases; in the afternoon, another panel hears a mix of owner-occupied and small residential investment properties, as well as some school board initiated cases. In contrast, Cuyahoga

County runs five (5) BOR panels—the jurisdiction of each being determined by the value of the subject property.

12. Must my property be appraised in all situations?

No. An appraisal may not be needed in situations where the real property has been the subject of a recent arms-length transaction in which the purchase price was fully negotiated and is reflected in the closing documents, e.g., in the purchase contract, on the settlement statement, in the lender's appraisal report, on the title insurance policy, and on the casualty insurance policy.

Additionally, if the building and site improvements erected on the property were recently constructed, it may be possible to submit relevant AIA Form 702 in order to document the construction costs paid.

13. Can I file a Complaint Against the Valuation of Real Property prior to having the property appraised?

A Complaint must state an amount of over-valuation, under-valuation, discriminatory valuation, illegal valuation, or incorrect determination of usage of the subject real property.

While the owner is required to set forth his or her opinion of the property's true market value, often the owner is faced with the situation where the March 31st statutory deadline will arrive before the owner's appraiser has finished completing the appraisal report. In such a situation, the owner should use his or her best judgment, taking into account, any recent sales which the owner is aware of, and use that figure as a preliminary value.

At the BOR hearing, the owner can orally move to amend the Complaint to reflect the value established by the evidence submitted to the Board.

14. Who hires the appraiser?

³ Cuyahoga, Franklin, Hamilton, Lucas, Mahoning, Montgomery, Portage and Summit Counties.

If an attorney has been retained to represent the property owner in a valuation [tax] appeal, the attorney should hire the appraiser so that communications between the attorney and appraiser can be kept confidential under the “attorney-work product” doctrine. The attorney should review the appraiser’s qualifications and proposed fee with the property owner before signing the appraiser’s written engagement agreement.

15. What qualifications should the appraiser possess?

The appraiser should be licensed by the State of Ohio.

The appraiser should have appraised the same or similar type of real estate in the same general locality as the subject property within the recent past.

Where the appraisal project involves commercial, industrial, manufacturing or shopping center property the appraiser should be a Member of the Appraisal Institute (MAI) or similar organization.

16. When will my case be heard by the Board of Revision?

Most Board of Revision hearings are held in June, July, and August. In certain smaller counties, there may be a designated week or two during which the BOR will hear all cases. In the largest counties, notably, Cuyahoga, Franklin and Hamilton, the case may be heard later in the year.

The Board will give all parties not less than ten (10) days’ advance notice prior to the hearing.

Hearings are generally limited to 20 minutes, with more complex cases being limited to 30 minutes. This time must be shared among the complainant who needs to describe the property’s physical characteristics and then offer reliable evidence that is probative of the property’s true market value as of the tax lien date in question, the local board of education which is permitted both to cross-examine the property owner’s witnesses and to present its

own appraisal and/or documentary evidence, and the members of the BOR itself who can pose questions both to the complainant and school district’s witnesses.

17. Who bears the burden of proof at the Board of Revision hearing?

Initially, the burden of proof rests on the complainant who must show by reliable and probative evidence what the true market value of the subject property is as of the tax lien date in question. Failure to meet that burden may result in no change or possibly an increase in value.

Remember that the BOR is only permitted to hear complaints about property values – not how the property owner is paying too much in taxes. The proper venue for addressing excessive tax rates is through the ballot box, not the BOR.

18. Is the Board of Revision bound to follow the Ohio Rules of Civil Procedure and/or the Ohio Rules of Evidence?

No. Your county BOR may, however, have adopted a set of Rules and Procedures that govern cases coming before that BOR. Parties are well-advised to check the BOR’s web site and/or telephone the BOR to ascertain whether local rules have been adopted and to obtain a copy of the same.

19. How long will it take for the Board of Revision to issue a decision?

Only in a handful of situations, where the evidence is so clear and convincing, will the BOR issue a decision at the conclusion of the hearing.⁴ Rather, in the vast majority of cases, a written decision will be sent to the parties via certified mail in two (2) to six (6) weeks.

20. I am unhappy with the Board of Revision’s decision. What can I do?

⁴ The Hamilton County BOR, however, regularly renders an oral decision immediately after the presentation of all evidence, and then mails a written record of its decision to the interested parties.

All parties to the case - property owners, local school districts and the County Auditor - can appeal the BOR's decision to the Ohio Board of Tax Appeals, located in Columbus, Ohio. The overwhelming numbers of appeals are heard by the BTA.

Additionally, property owners are allowed to appeal to the local Common Pleas Court. Filing an appeal to the local Common Pleas Court has certain advantages (the judge may be personally familiar with the subject real estate as well as comparable properties identified by the appraisers; the time for the appeal to be heard will be considerably shorter than the BTA's usual three (3) or more year backlogged docket; and the parties do not need to travel to Columbus). These advantages need to be balanced against the fact that many judges are unfamiliar with the appraisal process.

For more information or to schedule a free consultation regarding your real estate taxes, contact [Bluestone Law Group](#) today!

DISCLAIMER – These materials have been prepared for general educational purposes only and are not intended as legal advice for any specific case. The reader is strongly encouraged to seek professional legal representation with respect to the filing of any proceedings by the Board of Revision or the Ohio Board of Tax Appeals.

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SCHEDULE OF REAPPRAISAL AND TRIENNIAL UPDATES FOR OHIO'S 88 COUNTIES

2013 REAPPRAISAL

CARROLL
CHAMPAIGN
CLARK
FAIRFIELD
LOGAN
MARION
MEDINA
MIAMI
ROSS
UNION
WYANDOT

2014 REAPPRAISAL

ASHLAND
ASHTABULA
ATHENS
BUTLER
CLERMONT
FULTON
GREENE
KNOX
MADISON
MONTGOMERY
NOBLE
SUMMIT
WAYNE

2015 REAPPRAISAL

ALLEN
COSHOCOTON
GUERNSEY
SANDUSKY
VINTON

2016 REAPPRAISAL

ADAMS
COLUMBIANA
HANCOCK
HOCKING
HOLMES
LAWRENCE
MEIGS
MONROE
PAULDING
SCIOTO
TUSCARAWAS
WASHINGTON

2017 REAPPRAISAL

AUGLAIZE
CLINTON
DARKE
DEFIANCE
DELAWARE
FRANKLIN
GALLIA
GEAUGA
HAMILTON
HARDIN
HARRISON
HENRY
JACKSON
LICKING
MAHONING
MERCER
MORROW
PERRY
PICKAWAY
PIKE
PREBLE
PUTNAM
RICHLAND
SENECA
SHELBY
TRUMBULL
VAN WERT
WOOD

2018 REAPPRAISAL

BELMONT
BROWN
CRAWFORD
CUYAHOGA
ERIE
FAYETTE
HIGHLAND
HURON
JEFFERSON
LAKE
LORAIN
LUCAS
MORGAN
MUSKINGUM
OTTAWA
PORTAGE
STARK
WARREN
WILLIAMS

2013 UPDATE

ADAMS
COLUMBIANA
HANCOCK
HOCKING
HOLMES
LAWRENCE
MEIGS
MONROE
PAULDING
SCIOTO
TUSCARAWAS
WASHINGTON

2014 UPDATE

AUGLAIZE
CLINTON
DARKE
DEFIANCE
DELAWARE
FRANKLIN
GALLIA
GEAUGA
HAMILTON
HARDIN
HARRISON
HENRY
JACKSON
LICKING
MAHONING
MERCER
MORROW
PERRY
PICKAWAY
PIKE
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SENECA
SHELBY
TRUMBULL
VAN WERT
WOOD

2015 UPDATE

BELMONT
BROWN
CRAWFORD
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