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Abbreviations: "P/O" = Property Owner "BOE" = Board of Education
"BOR" = Board of Revision "BTA" = Board of Tax Appeals
"CAV" = Complaint Against Valuation "TY" = Tax Year

1. *Lowe's Home Centers, Inc. v. Washington Cty. Bd. of Revision*, 2016-Ohio-372 (February 4, 2016)

Facts: Auditor valued Lowe's at $9,091,000. P/O opined (no appraisal report) that subject property is worth $3,600,000 at BOR. BOR Holding: No change. Competing appraisals are presented at BTA. P/O: $5,700,000 (assumption was that property would be vacant if sold). County: $7,200,000 (assumption was that property would be leased). BTA Holding: $7,200,000 (County appraisal).

Holding: **Remanded to BTA to determine if Special-Purpose Doctrine applies.**

- The Special Purpose Doctrine is necessary to prevent the owner of a distinctive, but yet highly useful building from escaping full property tax because its sale would not attract many potential buyers.

2. *Rite Aid of Ohio, Inc. v. Washington Cty. Bd. of Revision*, Slip Opinion No. 2016-Ohio-371 (February 4, 2016)

Facts: Auditor valued Rite Aid store and parking lot at $3,319,000. Rite Aid, which owned the property (as opposed to leasing), appealed and submitted an appraisal pegging value of $1,396,920. Surveying the surrounding geographical area, Rite Aid's appraiser used general retail comps (both sale and lease) in the area – not just drugstores. He also adjusted his comps based upon whether there was a lease. The BOE's appraiser exclusively relied on drugstores comps (all around the state). She did not make adjustments for leased sales. BOR retained Auditor's value. BTA adopted Rite Aid's appraisal value.

Holding: **Affirmed.**

- The Court held that Rite Aid's appraisal evidence was more probative because **a long-term lease affects sale price and value; the sale price of a leased-fee comparable should be adjusted when the subject property has no lease**.
- **The Special Purposes Doctrine was not applicable** here because the drugstore contained 11,000 sq. ft. (compared to massive 190,000 sq. ft. buildings like Meijer stores) and thus, current use value not to be considered, correct approach is value-in-exchange.

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3. *Warrensville Hts. City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision*, Slip Opinion No. 2015-Ohio-78 (January 13, 2016)

Facts: Chapter 11 bankrupt P/O sold racetrack at an auction for $43,000,000. P/O had property appraised at $13,800,000 – much of the value of the racetrack attributed to the potential for new owner to add video lottery terminals (i.e., gambling) and various racetrack fixtures. BOE argued that the purchase price was the best evidence of market value because, at the time, R.C. § 5713.03 stated a recent arm's length sale "shall" establish the market value of the subject property. BOR issues no change ($14,264,200). BTA adopts P/O's appraisal value ($13,800,000).

Holding: **Affirmed.**

- Court pointed to R.C. § 5713.04 which provides the **amount received for real property sold at an auction or forced sale does not establish its value.**
- However, the Court also pointed out that this statute is not an absolute rejection of all auctions. The proponent bears the burden to prove that the sale was nevertheless an arm's-length transaction between typically motivated parties and should be regarded as the best evidence of the property's value, the BOE failed to provide any additional evidence and relied solely on the recent sale.
- Judgment for P/O based upon appraisal value of $13,800,000.

4. *Megaland GP, L.L.C. v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2015-Ohio-4918 (December 3, 2015)

Facts: P/O filed 2nd appeal within triennial period claiming that "property had lost value due to casualty". BOE filed a counter-complaint. BOR dismissed case for want of jurisdiction because the casualty was an "ongoing condition", not a new event. P/O appealed to BTA and requested that case be referred to Small Claims Docket. BOE filed a motion to have case moved to regular docket (because Small Claims Docket decisions are not appealable). BTA denied motion. BOE appealed.

Holding: **Affirmed**. (4 to 3 ruling)

- R.C. § 5703.021(D) requires BTA to return cases to Regular Docket: (1) upon request of "a party that is a taxpayer"; (2) when appeal presents an issue of public or great general interest or presents a constitutional issue; or (3) when BTA determines that the appeal does not meet the requirements for assigning the case to Small Claims Docket under R.C. § 5703.021(B).
- BOE argued it is a taxpayer. Court disagreed stating that a party that is a taxpayer under R.C. § 5703.021(D) means one whose standing as a party to the case before the BTA is predicated on the ownership of taxable property in the county under R.C. § 5715.19(B).
- Because BOE's status as a party to this proceeding depends solely upon having file a counter-complaint in its capacity as an affected school district pursuant R.C. § 5715.19(B), the BOE is not a taxpayer for these purposes.
    - Seems to be more of a policy ruling – intent appears to be to keep BOE from having the option to move any case out of Small Claims Docket unless the BOE had originally filed a CAV based upon its status as the owner of real property located in the County, not its status as the local BOE.

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5. *Columbus City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2015-Ohio-4837 (November 25, 2015)

Facts: P/O filed CAVs on 3 residential duplex properties: (1) Auditor's Value: $153,700, P/O's value: $81,066; (2) Auditor's Value: $153,700, P/O's value: $81,066; and (3) Auditor's Value: $149,200, P/O's value: $74,666. P/O testified that he had consulted with an unidentified real estate agent (hearsay) and presented some print-out documents regarding sales of comparable properties, but could offer no testimony about inferior conditions or arm's-length nature of those sales (not very strong evidence).

Auditor's representative, after the conclusion of BOR hearing, makes the following recommendations and BOR agrees: (1) $96,000; (2) $97,500; and (3) $101,000. BOE files appeal to BTA. Neither party submits any additional evidence nor appears at BTA hearing. BTA affirms BOR's decision. BOE appeals to Supreme Court.

Holding: **Affirmed.**

- **BOE waived its claim of error as appellant when it presented neither argument nor evidence before the BTA.**
- Even though the BOE argues that the evidence relied upon the BOR in making the reductions was not placed into the record, the BOE did nothing to advance this argument before the BTA. "The only thing the BOE presented at the BTA was its Notices of Appeal…."

6. *Sears, Roebuck & Co. v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2015-Ohio-4522 (November 3, 2015)

Facts: Auditor valued subject property at $8,323,000 for TYs 2005-10. P/O filed CAV and has property tax manager testify as to a valuation study which concludes to a $4,000,000 value for TYs 2005-07 and a $3,600,000 value for TYs 2008-10. BOR issues a "no change" decision.

P/O appeals to BTA. P/O presents appraisal evidence concluding to values of $6,300,000 for TYs 2005-07 and $6,550,000 for TYs 2008-10. At BTA hearing, BOE questions P/O's appraisal methods (in particular, treating Sears department store and its automotive center as single economic unit (and not separately valuing them)), but provides no evidence in its brief on how a different method would yield a different value. BTA adopts P/O's appraisal values. BOE appeals.

Holding: **Affirmed**.

- Supreme Court was very critical of the BOE's appeal – essentially asking, *if the BOE believed the P/O's appraisal report to be so flawed, why didn't it get it hire a 2nd appraiser to do an appraisal review to refute the P/O's appraisals?*
- BTA is not required to address each and every criticism raised by counsel if there is no evidence provided to support such criticism.
- "Quite simply, the speculations of lawyers about the substance of appraisals do not always merit discussion by a busy tax tribunal with a docket of hundreds, if not thousands of cases."

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7. *Steak 'n Shake, Inc. v. Warren Cty. Bd. of Revision*, Slip Opinion No. 2015-Ohio-4836 (November 25, 2015)

Facts: Auditor valued property at $1,259,590. P/O filed a CAV for $832,000. BOR upholds Auditor's value. Both parties present appraisal evidence at BTA. County's appraiser concluded to a $997,000 value for TY 2009; P/O's appraiser concluded to a $680,000. BTA found County's appraisal evidence to be more probative, but brushed off P/O's objections to County appraiser's qualifications as well as County appraiser's failure to adjust sales prices of comparable properties to remove effects that long-term leases have on those sales prices when trying to value unencumbered properties. P/O appealed.

Holding: **Reversed and remanded to BTA to determine value based on P/O's appraisal and any other evidence in the record.**

- Court rejected P/O's procedural claims re: County's appraiser testifying at BTA hearing (i) without being a state certified general appraiser and (ii) not following USPAP.
- Individuals may testify about the appraisal of real estate without being a certified general appraiser or a Member of the Appraisal Institute. So long as they are otherwise qualified, Appraisers not required to follow USPAP standards before BTA, however, not doing so may affect the weight and probative character ascribed to the appraisal.
- P/O did, however, raise a successful substantive claim that the County appraiser failed to adjust the sales prices of the comparable properties to remove the effect that long-term leases would have on sales prices when valuing an unencumbered parcel since. Properties unencumbered by a lease would generally sell for less.
- The **Special Purpose Doctrine does not apply in this case** as the property is a 3,400 sq. ft. restaurant.

8. *Schwartz v. Cuyahoga Cty. Bd. of Revision*, 143 Ohio St.3d 496 (August 27, 2015)

Facts: Auditor value was $126,800. P/O purchased 2-family dwelling from HUD for $5,000; P/O was willing to accept $30,000 as property value even though that was six times what the P/O paid. No counter-complaint filed by BOE. BOR issued a No Change decision stating that the recent sale and comps were not probative. BTA affirmed BOR's decision.

Holding: **Reversed and Remanded.**

- BTA erred by rejecting the 2011 HUD sale price as evidence of value – R.C. § 5713.04's provisions that the price that a property sells for at auction or a forced sale is not indicative of its value, is a rebuttable presumption.
- The BTA acted unreasonably by finding that this transaction was not voluntary and at arm's length because the P/O provided sufficient evidence to show that the transaction was equivalent to an arm's length one:
    - Property was on market for 3 years (including one year after being transferred from bank to HUD) and had a "For-Sale" sign in front yard
    - P/O made multiple offers to purchase property that were rejected
    - P/O was advised that building would be razed unless he wanted to buy it
    - Other sales on same street constituted proof that market could not bear a higher sales price at the time.

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9. *Metamora Elevator Co. v. Fulton Cty. Bd. of Revision*, 143 Ohio St.3d 359 (July 15, 2015)

Facts: Auditor valued subject property at $2,022,600. P/O proposed value of $820,740. P/O wanted to remove grain storage bins from real property assessment and classify them as a business fixture (i.e., personal property). BOR issued a No Change Order. P/O appealed only the larger of the 2 parcels on the subject property (this parcel contained the storage bins). The BTA reversed the BOR's decision and attributed $1,095,360 to storage bins using the County's own value for the storage bins. Thus, the value dropped from $1,833,600 to $738,240. The BOE appealed. The main question for Supreme Court was: *are storage bins improvements taxable as real property or fixtures that constitute personal property and therefore not taxable?*

Holding: **Affirmed.**

- **The General Assembly has expressly defined the term "business fixture" in R.C. § 5701.03 to include storage bins, and therefore, they are personal property not subject to real property tax.**
- The statutory definition of "business fixture" also includes machinery, equipment, signs, storage tanks (whether above or below ground) and broadcasting, transportation, transmission and distribution systems (whether above or below ground).

10. *Ginter v. Auglaize Cty. Bd. of Revision*, 143 Ohio St.3d 340 (July 2, 2015)

Facts: Auditor valued subject property at $113,511. P/O proposed a value of $99,900. Shortly after filing CAV but before the BOR hearing, P/O's attorney submitted evidence of recent arm's length sale supporting proposed value. Neither P/O nor P/O's attorney appeared at the BOR hearing, which led to the BOR dismissing the case. P/O appealed. BTA held that BOR didn't have authority to dismiss case and directs BOR to value subject property at $99,900 based upon P/O's written submission. BOR and Auditor appealed to Supreme Court.

Holding: **Reversed 20 year precedent, finding that BOR must make value determination.** Case remanded to BOR so that it may evaluate the evidence.

- **BORs do not have the authority to dismiss a CAV based on the complainant's mere failure to attend the BOR hearing.** A BOR must make a determination of value whenever a CAV properly invokes its jurisdiction (regardless of whether the P/O attends the hearing). Court recognizes that a case can be dismissed when the complainant fails to involve the BOR's jurisdiction; examples: (1) failure to timely file CAV; (2) filing 2nd CAV in violation of 1 filing per triennium rule.
- BTA decision vacated and case remanded to BOR. **It was premature for the BTA to address the value.**