

# **Bond Case Briefs**

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## **TAX - OHIO**

### **Mason City School Dist. Bd. of Edn. v. Warren Cty. Bd. of Revision**

**Supreme Court of Ohio - January 21, 2014 - 2014 WL 241950 - 2014 -Ohio- 104**

County school board appealed decision of county board of revision, determining that \$3.3 million was the tax value of real property for a specific tax year. The Board of Tax Appeals (BTA) issued a decision determining that the tax value of the property was \$5.3 million. Appeal was filed by property owner that had acquired the property after the BTA hearing but before BTA issued its decision. School board filed motion to dismiss appeal.

The Supreme Court of Ohio held that:

- Failure of new owner to serve former owner with notice of appeal was not a jurisdictional defect;
- BTA was not required by statute or regulation to continue hearing or give notice of hearing to new owner; but
- BTA was required to evaluate determination by board of revision that previous sale of property had not been recent.

Failure of new owner of real property to serve former owner notice of appeal of decision of BTA, determining tax value of property, was not a jurisdictional defect warranting dismissal of appeal, since requirement that new owner serve former owner did not run to the core of procedural efficiency. New owner, not former owner, had primary and substantial interest in valuation of property, potential deprivation of property through foreclosure of tax lien directly affected new owner, not former owner who had transferred the property.

On appeal of county board of revision decision determining tax value of real property for a certain year, BTA had a sufficient evidentiary basis to determine date and price of previous sale of property, for purposes of determining whether sale could be used as basis for valuation of property. Although taxing authority failed to present evidence of sale, property record card contained a notation referring to date and price of the sale, county auditor had recited date and price of sale at hearing before county board of revision, and owner and taxing authority did not contest the facts of the sale but instead presented arguments as if the sale was factual.

BTA had authority to determine tax value of real property in appeal of decision of county board of revision, unrestricted by values claimed by owner or taxing authority, and thus fact that taxing authority did not rely on previous sale of property as basis for valuing property did not preclude BTA from using prior sale as value of property.

BTA was required to evaluate determination of county board of revision that previous sale of real property was not recent, for purposes of determining tax value of property, and could not rely on mere temporal proximity between previous sale and tax lien date in determining that sale had been recent, where board of revision had made an explicit finding that presumption of recency of the sale had been rebutted by facts that 57% of tenants in commercial retail property had vacated in the 13

months after sale.

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