

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

CONSTANCE B. BARRETT,	:	APPEAL NO. C-1000375
Plaintiff-Appellee,	:	TRIAL NO. A-0908869
vs.	:	<i>JUDGMENT ENTRY.</i>
HONORABLE DUSTY RHODES,	:	
HAMILTON COUNTY AUDITOR,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Dusty Rhodes, the Hamilton County Auditor, (“the Auditor”) appeals from the trial court’s tax valuation of property owned by plaintiff-appellee Constance Barrett. For the following reasons, we affirm the trial court’s judgment.

Barrett owns Unit 7A in the condominium building located at 2412 Ingleside Avenue in Cincinnati. The building has seven floors with four condominium units on each floor. All of the A units are the same size, and they are in a “stack,” i.e., they are either directly above or directly below one another. The same is true of the B, C, and D units. The A and D units are the same size, with limited views of the Ohio River, but the A units face east, away from the city of Cincinnati, whereas the D units face west towards the city. The B and C units are the same size but are larger than the A and D units. The B and C units face the Ohio River and have views both up and down the river.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

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The Auditor had valued Barrett's condominium at \$557,550 as of January 1, 2008. Barrett appealed that valuation to the Hamilton County Board of Revision ("the Board"), but the Board determined that the Auditor had correctly valued the property. Under R.C. 5717.05, Barrett then appealed the Board's decision to the Hamilton County Court of Common Pleas. The trial court held a hearing to determine the value of the property.

At the hearing, Barrett presented the testimony of Robert Bigner, a state-certified real estate appraiser, Bigner's appraisal report, and her own testimony. In his appraisal report, Bigner valued Barrett's condominium at \$375,000. He reached that value by relying on three comparable sales in the building: Unit 4A, Unit 6C, and Unit 7C. Unit 4A sold in May 2008 for \$346,000. Because Units 6C and 7C had better views and had more square footage than A units, Bigner adjusted their sales prices for those factors and determined that the value of Unit 6C, when it sold in April 2007, was \$476,000, and that the value of Unit 7C, when it sold in January of 2007, was \$563,500. Bigner indicated that he primarily relied on the sale of Unit 4A to determine the value of Barrett's property because both were A units with a limited view of the river, and because both had limited updating.

Bigner also testified that Unit 7D, which is located on the same floor as Barrett's condominium and has a better view, had been for sale for over two years. The most recent listing price had been \$395,000, but it still had not sold. He also testified that the Board had recently reduced the value of Unit 7D to \$399,000. Finally, Bigner testified that the views of the city from the D units were more valuable than the view from A units because being able to view the city and events like the Labor Day fireworks "is a big deal."

Barrett testified that the units in her building were primarily sold based on their views, and that her unit, being an A unit, had a limited view. She indicated that she had been trying to sell her condominium for several years and had been unsuccessful. She testified that she last had it listed for \$469,000, but it still had not sold. She testified that it would cost at least \$200,000 to upgrade her unit to the point where it would be desirable to sell in the \$400,000 range.

The Auditor offered the testimony of Camilla Hileman, an appraiser employed in the Auditor's office. She used different comparables than Bigner used, a majority of which were sales of B and C units, to determine that the value of Barrett's condominium was \$610,000. Hileman testified that Bigner should not have primarily relied on the sale of Unit 4A because it was the result of an estate sale, and because the property was in poor condition.

After considering the evidence presented, the trial court determined that the fair market value of Barrett's property was \$375,000. This appeal followed.

In his only assignment of error, the Auditor now argues that the decision of the trial court was "against the manifest weight of the evidence and was unlawful and unreasonable."²

In an appeal from a ruling of the Board, a trial court is required to independently determine the value of the property at issue.³ When the trial court arrives at a valuation upon consideration of all relevant evidence, its decision cannot be disturbed on appeal absent a showing of an abuse of discretion.⁴ To warrant a

² The Auditor originally set forth a second assignment of error in his appellate brief, but he withdrew that assignment at oral argument.

³ *Anderson Twp. Historical Soc., Inc., v. Rhodes*, 1st Dist. No. C-070187, 2008-Ohio-1436, ¶15.

⁴ *Id.*

reversal, the appellate court must conclude specifically that the trial court's determination is unreasonable, arbitrary, or unconscionable.⁵

Upon review of the record, it is evident that the issue of valuation turned on which appraiser the trial court found more credible. And because matters concerning credibility of the evidence are for the trier of fact to decide,⁶ we cannot say that the trial court abused its discretion in relying on Bigner's testimony that the value of Barrett's property was \$375,000. Bigner was a qualified real estate appraiser who relied on the sale of Unit 4A, which was the same size as Barrett's condominium and had the same view. Additionally, the sale of that unit was the closest in time to the Auditor's valuation of the property in January 2008. Further, Bigner testified that Unit 7D, on the same floor as Barrett's condominium but with a better view, had recently had its value reduced by the Auditor to \$399,000. Given the foregoing, we hold that the trial court's valuation of Barrett's property was not unreasonable.

Accordingly, the single assignment of error is overruled, and the judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., SUNDERMANN and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on February 2, 2011

per order of the Court _____
Presiding Judge

⁵ Id.

⁶ *Kalain v. Smith* (1986), 25 Ohio St.3d 157, 495 N.E.2d 572; *Capeheart v. O'Brien*, 1st Dist. No. C-040223, 2005-Ohio-3033.