

Publications

State and Local Tax Alert: Ohio Supreme Court Overturns Reliance upon Leased Fee Sales for Real Property Tax Purposes

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CLIENT ALERT | 7.11.2017

On June 22, 2017, the Ohio Supreme Court issued a decision overturning over a decade of case law that consistently found that a recent arm's length sale was the best evidence of value for real property tax purposes regardless of the circumstances surrounding the sale. In its decision, the Court makes it clear that a sale price no longer conclusively determines value for tax purposes as it did under prior law. *Terraza 8 L.L.C v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2017-Ohio-4415 is a significant victory for Ohio taxpayers. The full opinion can be accessed [here](#).

This decision has significant and immediate impacts for Ohio taxpayers:

- All properties must be valued based upon the fee simple interest, one that is free of all encumbrances, including a lease.
- Properties that are subject to an above-market lease will no longer be taxed more than their competitors that may not be encumbered by a lease.
- Recent sale prices based upon a long-term, above-market lease will no longer control. The opponent of the sale can rebut the use of the sale price.
- A sale price must reflect the true value of the property's fee simple interest to be utilized for real property tax purposes.
- This decision also will impact tax appraisals and the data and adjustments utilized by appraisers when there is no recent sale.

This decision emanates from legislative changes signed into law on June 11, 2012, which became effective on September 10, 2012 in Am. Sub H.B. 487. The changes to R.C. 5713.03 specified that it is the true value of the **fee simple estate as if unencumbered** that is to be valued by the county auditor. It also changed the requirement that an auditor "shall" consider the sale price to be true value to the auditor "may" consider the sale price when valuing property for real estate tax purposes. The court's decision specifically overturns the 2005 decision in *Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (2005), 106 Ohio

St.3d 269, and the litany of cases that followed.

The real property tax valuation landscape is undergoing significant change in Ohio. Vorys has extensive experience in state and local tax and works with property owners across Ohio and the country to help manage real property taxes. Contact your Vorys attorney with questions or concerns about real property taxes and how this tax impacts your business.