Ohio Supreme Court adopts new bright-line standard for presumption of recency

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The Ohio Supreme Court overturned long-standing precedent from the Ohio Board of Tax Appeals (BTA) last month when it ruled in a 6-1 decision that the sale price paid to acquire property more than 24 months prior to the tax lien date was too remote to give rise to a rebuttable presumption of a property's true value. Akron City School Dist. Bd. of Edn. v. Summit Cty. Bd. of Revision, Slip Opinion No. 2014-Ohio-1588. Instead, a party asserting that a sale occurring more than 24 months prior to the tax lien date demonstrates the best evidence of a property's value must now show that market conditions and the character of the property have not changed since the date of the sale.

The Court explained the rationale for its decision as follows:

> The rule that we adopt today prevents a remote sale from controlling over a more recent appraisal...Were we to impose a presumption of recency that had no boundaries, the fiscal officer's duty to conduct an accurate reappraisal every six years would be impaired by sales too remote to be relevant. A sale as old as five or even ten years could potentially cast a deep shadow over the tax assessor's performance of his legal duty to adopt and maintain a current valuation of the property. The safeguard in this instance is to remove the recency presumption from a sale that occurred more than 24 months before the lien date.

This important decision overturned well-established BTA precedent holding that there was no bright-line standard for determining when a sale would be deemed sufficiently recent to create a rebuttable presumption of value. The BTA had previously held that the price paid to acquire property as much as 40 months prior to the tax lien date was presumed to reflect such property's true value. McCarty v. Clark Cty. Bd. of Revision, BTA No. 2008-V-2302, 2010 Ohio Tax LEXIS 1610, *12-14 (Sept. 21, 2010). While a party opposing the sale price could theoretically provide enough evidence to rebut this presumption, because this occurred so rarely, if ever, the so-called rebuttable presumption was seemingly irrebuttable. The Court's decision in this case effectively shifts the evidentiary burden to the party asserting that a sale

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occurring more than 24 months prior to the tax lien date constitutes the best evidence of value.

It is unclear whether the Court intends this decision to extend beyond the narrow facts at issue in this case, which involved a fiscal officer who determined that the price for which a property sold 29 months prior to the tax lien date was too remote to demonstrate the property's value for purposes of the county's sexennial reappraisal. But one thing is clear — now, more than ever, a party asserting that the best evidence of a property's value is the price paid to acquire it more than 24 months prior to the tax lien date should be prepared to substantiate this assertion with other evidence.

