

Is the Sale Price of a Residence Determinative of Its True Value for purposes of Real Property Tax Assessments?

By [Frank L. Brunetti](#) on February 6th, 2012

No, the residence sale price standing alone is insufficient to provide reliable evidence of [market value](#) in the absence of other corroborative evidence.

[The New Jersey Tax Court](#) has affirmed a municipality's determination of true value of a residential property after finding that the purchaser's sale price standing alone was insufficient to provide a reliable evidence of market value.

In these difficult economic times for homeowners and municipalities, the payment and receipt of real property taxes are important. Real property taxes are assessed and paid based on a property's full and fair value which is defined as the price of the property would sell for at a "fair and bona fide sale" by private contract on October 1. [Taxable value](#) is a fixed percentage of true value. Hence, the method used to determine true value is critical.

Recently, in a Tax Court decision ([Gibbons v. City of East Orange](#)) a residence was assessed at \$262,100 but had been purchased for \$125,000 within a month after the assessment. The owner challenged the assessment. The Board of Taxation however entered a judgment affirming the assessment. The owner appealed to the Tax Court maintaining that the assessment should be the purchase price of the residence, namely, \$125,000 not the assessed value

The Tax Court noted that it is well-established that original assessments and judgments of county boards of taxation are entitled to a presumption of validity. The scope of this presumption has been stated as follows:

- The presumption attaches to the quantum of the tax assessment.
- Based on this presumption the appealing taxpayer has the burden of proving that the assessment is erroneous.
- The presumption in favor of the taxing authority can be rebutted only by cogent evidence, a proposition that has long been settled.
- The strength of the presumption is exemplified by the nature of the evidence that is required to overcome it. That evidence must be definite, positive and certain in quality and quantity to overcome the presumption.

The Tax Court found the assessment to be correct because in tax matters there is a presumption that governmental authority has been exercised correctly and in accordance with law. The presumption remains in place even if the municipality utilized a flawed [valuation methodology](#), so long as the quantum of the assessment is not so far removed from the true value of the property or the method of assessment itself is so patently defective as to justify removal of the presumption of validity.

To overcome the presumption, the property owner must provide sufficient competent evidence to the contrary. The evidence must be sufficient to determine the value of the property thereby establishing the existence of a debatable question as to the correctness of the assessment. The burden of proof remains on the [taxpayer](#) throughout the entire case to demonstrate that the judgment under review was incorrect.

The comparable sales approach is generally accepted as an appropriate method of estimating value for a residence. In this approach, the market value for the subject property is derived by comparing similar properties that have recently sold with the property being appraised, identifying appropriate units of comparison, and making adjustments to the sale prices of the comparable properties based on relevant, market-derived elements of comparison.

In Gibbons, the Plaintiff did not offer any comparable sales or any other evidence to establish that the assessment on the residence was incorrect, or that its market value should be \$125,000 (the residence's purchase price) as of the date of assessment. The Plaintiff contended that because the residence's sale was between a willing seller and herself, a willing buyer, the residence's sale price was a reliable indicator of its market value.

The Tax Court noted that the sales price of a property may be the best indicator of its true value in some circumstances. However, while a property's sale price may be evidence of market value, it still requires that the sale meets the other requirements of market value.

The court noted the sale price is "a guiding indicium of fair value and ordinarily is merely evidential although it might under peculiar circumstances become controlling, subject to the limitation that the determination properly involves the weighing and appraising of all component factors and adventitious circumstances." The weight, if any, to be afforded the sale must depend upon all of the facts and circumstances surrounding it.

Moreover the Court noted that an arms' length transaction is one between a knowledgeable buyer, under no compelling obligation to buy, and a willing knowledgeable seller, under no compelling obligation to sell. The court determined that the sale may not have been at arms length and the evidence as to the surrounding circumstances of the sale tended to establish that the sale price was not a reliable indicator of the residence's market value. It noted that the residence was vacant and in need of repairs. The [MLS](#) also noted the need for fixing up of the residence. It was also not disputed that the owner was ill and in a nursing home. There were no negotiations with the seller. Rather, plaintiff's first offer was immediately accepted. These facts, the

Court noted, corroborate the statement in the MLS that the owner was “anxious” to sell. The evidence thus indicated that the seller desired to make a quick sale, which tends to prove that the residence was sold by one who was under a compelling obligation to sell.

Finally, that plaintiff was a willing and knowledgeable buyer did not overcome the evidence that the seller’s daughter desired to make a quick sale of her father’s vacant house. The Court emphasized each party must not be under any urgency or compulsion to finalize the transaction.

Therefore, the court determined the residence’s sale price, standing alone, was insufficient to provide a reliable evidence of market value in the absence of any other corroborative evidence of comparable sales or of market conditions. The court found that the plaintiff has not met her burden to prove by a fair preponderance of the evidence that the judgment of the Board of Taxation was incorrect.

The result reached by the Tax Court while not surprising underscores the difficulty a property owner has in challenging a real property tax assessment especially where the purchase price is less than the assessed value. One would think that sale price would carry more weight but in the final analysis it is only evidence of value and not determinative. Providing other corroborative evidence of true value is a critical component of a challenge to a real property tax assessment.