

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: George and Ronnie Kokkines
DOCKET NO.: 03-00709.001-R-1
PARCEL NO.: 11-28-108-036

The parties of record before the Property Tax Appeal Board are George and Ronnie Kokkines, the appellants, and the Lake County Board of Review. Appellant George Kokkines, who is a licensed Illinois attorney, appeared to represent himself and his wife.

The subject parcel contains 10,202 square feet of land area and has been improved with a two-story style frame and masonry single-family dwelling built in 2002. The dwelling contains 3,818 square feet of living area and features central air conditioning, a fireplace, a full unfinished basement, a three-car attached garage of 585 square feet of building area, and a 200 square foot concrete patio. The property is located in Vernon Hills, Libertyville Township, Illinois.

The appellants submitted evidence to the Property Tax Appeal Board claiming unequal treatment in the assessment process and overvaluation regarding the subject's improvements as the bases of the appeal. Appellants also filed a brief in support of the inequity and overvaluation arguments and further alleged lack of due process by the Lake County Board of Review with regard to the local appeal process. No challenge was made to the subject's land assessment (see Residential Appeal Form).¹

The initial issue raised was dwelling sizes. Appellants asserted that based on data from the builder, the subject contains 3,801 square feet. The appellants also recognized that the township assessor recorded the subject as containing 3,818 square feet of living area. At hearing appellants admitted that they had not personally measured the subject and did not really quibble with the size of the subject as recorded by the assessor. Next, although appellants have not measured their comparable 1, appellants contend the assessor's records stating this dwelling

¹ In the brief, however, appellants did assert it was unfair for two of the suggested comparables to have larger lots in more desirable golf course locations, but still have the same land assessments as the subject.

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Lake County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	41,464
IMPR.:	\$	143,331
TOTAL:	\$	184,795

Subject only to the State multiplier as applicable.

contains 3,357 square feet of living area was "just wrong." In appellants' analysis of comparable 1, they utilized the builder's statement of 3,500 square feet of living area for this model dwelling (Appellants' Ex. 8).

In support of both the improvement inequity and overvaluation claims, the appellants submitted a single grid analysis with information on six comparables and sales and/or mortgage information for five of those properties along with additional documents such as color photographs. These six suggested comparables were located within the Gregg's Landing development and no more than 0.5 mile from the subject. The development has been divided into "pods" or subdivisions where various builders and/or developers constructed the dwellings. Comparables 1 and 2 were located in Beaver Creek subdivision like the subject.

In further support of the arguments, the appellants' brief set forth various allegations, some specific to properties and some generalized as to assessment practices. As to the assessment of the subdivision, in their brief appellants asserted that there are three different types of dwellings within the development, non-custom, semi-custom and custom homes, but the entire development should be treated for assessment purposes as one neighborhood. Based upon their evidence and arguments, appellants contend the subject's improvement assessment should be significantly lower than that of comparables 1 and 2 and should be consistent with their comparables 3 through 6 which were located in three other subdivisions within the development.

The six comparables presented by the appellants were reported to consist of two-story style frame and masonry or frame and stucco dwellings that were 2 to 7 years old. Features of the comparables included central air conditioning, garages that contained from 599 to 701 square feet of building area, and full unfinished basements ranging in size from 1,904 to 2,002 square feet of building area. Five of the comparables had from 1 to 3 fireplaces and a deck or patio. Comparable 1 also had a 384 square foot swimming pool. The dwellings are said to range in size from 3,500 to 4,116 square feet of living area.

As to the inequity argument, these six properties have improvement assessments ranging from \$116,348 to \$140,027 or from \$30.63 to \$40.01 per square foot of living area. The subject has an improvement assessment of \$143,331 or \$37.54 per square foot of living area. Based on the foregoing data, the appellants requested a reduction in the subject's assessment to \$124,276 or \$32.55 per square foot of living area.

As to the overvaluation claim, five of the comparables were said to have "sale price" data. Comparable 1 was said to have a mortgage consisting of a "loan amount" of \$592,000 and an "additional loan amount" of \$148,000 (Appellants' Ex. 2 a computer printout from a legal service known as WestLaw). From this data, appellants presented comparable 1 as having a market value of \$740,000 as a sale price in November 2001 or \$211.42 per

square foot of living area including land. Their own Exhibit 2 reflects a public record purchase price in November 2001 for this property of \$579,000 or \$165.43 per square foot including land assuming 3,500 square feet of living area. However, with the value based upon the mortgage, appellants contend comparable 1 has a market value in excess of \$740,000 or more than \$100,000 more than the subject meaning the subject's nearly identical assessment per square foot is excessive in light of the differences in market value of the properties.

Comparable 2 was said by appellants to have a "base price" of \$569,900 for its purchase in June 2002 or \$159.95 per square foot of living area including land. Appellants alleged in their brief filed in March 2004 that this property was listed for sale for \$855,900, again some \$200,000 more than the subject's purchase price despite having a similar 2003 improvement assessment per square foot of living area. Moreover, at hearing appellants pointed out the property record card for this property submitted by the board of review reflects a sale transaction in January 2004 for \$815,000. Thus, again the subject's nearly identical per square foot improvement assessment is excessive in light of the differences in market value between the subject and comparable 2.

In comparison, appellants contend the sale prices for comparables 3, 5 and 6 are more similar to the subject's purchase price. These sales occurred between July 2002 and September 2003 for prices ranging from \$595,000 to \$659,000 or from \$157.41 to \$177.63 per square foot of living area including land. Appellants reported the subject property was purchased in December 2002 for \$614,900 or \$161.05 per square foot of living area including land. Based upon Lake County's 2003 three-year median level of assessments of 33.21%, as reflected by its total assessment of \$184,795, the subject has an estimated market value of \$556,444 or \$145.74 per square foot of living area including land.

As to appellants' legal contention concerning an alleged lack of due process before the Lake County Board of Review, appellants raised a number of issues. In summary, appellants contended they had less time than allotted by local board rule between receipt of notice and the actual hearing date in violation of the county's rules, there was a failure of the county to provide its evidence prior to hearing in violation of the applicable rules, the appellants were denied the opportunity to rebut the county's evidence due to the failure to present the evidence prior to hearing, and the appeal was heard by one board member instead of a three-member panel.

On cross-examination, the appellants acknowledged their comparables 3 through 6 were constructed by a different builder than the one who constructed the subject. However, having toured some of the homes in these areas, appellant George Kokkines testified the dwellings possessed similar amenities to the subject property. He further testified from his knowledge there

were no structural changes to comparable 2 between the sale price in 2002 and the sale price in 2004.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$184,795 was disclosed. In support of the subject's assessment, the board of review submitted a letter prepared by the township assessor, a grid analysis of three comparable properties located in Beaver Creek subdivision with assessment information and sales data for two of those properties along with applicable property record cards. Board of review comparable 3 is the same as appellants' comparable 2; comparables 1 and 3 are located on the same street as the subject. Also, in response to the appellants' evidence besides the assessor's letter, the board of review reiterated the appellants' six comparable properties in a grid analysis and attached the underlying property record cards for those properties.

The letter from Peggy Freese, Libertyville Township Assessor, in pertinent part, described for assessment purposes that properties are "stratified into neighborhoods . . . from which market data is extracted for analysis and to estimate value. Neighborhood 'boundaries' establish the limits of influences on property values. The limits may be physical, political, social, or based upon unique property characteristics or land use." The assessor further described that the subject's neighborhood of Beaver Creek is part of the larger development known as Gregg's Landing which is comprised of 23 different subdivisions. In 2003, only 11 dwellings were complete in Beaver Creek with many properties still under construction. In further support of the assessor's position, four computer printouts were included with sales data on improved properties sold in the subdivisions of Beaver Creek, Pine Valley, Cypress Pointe, and Torrey Pines within the development. The data reflected sales that occurred between February 2000 and December 2002. The data provided was the parcel number, address, date of sale, sale price, size, story height, year of construction, and dwelling model name. In summary this data reflects 24 sales of two-story properties ranging in size from 3,204 to 4,221 square feet of living area built between 1997 and 2002 selling for prices ranging from \$430,000 to \$684,721 or from \$115.89 to \$195.41 per square foot of living area, including land.

At the hearing, the board of review called Deputy Township Assessor Mark Doetsch for testimony. Doetsch stated that, but for a very few exceptions, he personally measured the exteriors of virtually all the dwellings in the same manner in the Gregg's Landing Development and in fact measured all of the improvements within Beaver Creek. With regard to appellants' comparable 1 where the living area was contested by appellants, Doetsch testified to the accuracy of the measurements he had taken to arrive at 3,357 square feet of living area for this property. Doetsch speculated that perhaps open foyers or other such amenities caused the builder to record more square footage than the assessor.

Doetsch characterized the properties in Beaver Creek as being semi-custom dwellings, but noted that the grade assigned to the properties would tend to reflect any differences among properties between non-custom, semi-custom and custom dwellings. As testified to by Doetsch, the subject has an assigned grade of B+10.² He further testified all three comparables presented by the board of review should have grades of B+10 also. As reiterated by the board of review, appellants' six comparables were said to have grades of either B+5 or B+10. Doetsch characterized these grades of the properties to be "close" with Beaver Creek being slightly higher than the other neighborhoods.

In support of the subject's improvement assessment, the board of review presented a grid analysis of three comparables located in Beaver Creek subdivision. The properties consist of two-story style brick or brick and frame dwellings that were built in 2002 or 2003. Features include central air conditioning, one or two fireplaces, full basements ranging in size from 1,904 to 2,084 square feet of building area, and garages that contain either 585 or 701 square feet of building area. Each of the comparables also has at least one deck. The dwellings range in size from 3,563 to 3,951 square feet of living area. These properties have improvement assessments³ ranging from \$137,954 to \$146,645 or from \$37.12 to \$38.72 per square foot of living area. Based on this evidence the board of review requested the subject's improvement assessment of \$37.54 per square foot of living area be confirmed.

Board of review comparables 2 and 3 included sales data reflecting sales in June 2002 and August 2003 for prices of \$569,900 and \$664,900 or \$159.95 and \$168.29 per square foot of living area including land, respectively. The subject has an estimated market value of \$556,444 or \$145.74 per square foot of living area including land, as reflected by its total assessment of \$184,795 and Lake County's 2003 three-year median level of assessments of 33.21%. The board of review also reported the subject property was sold in December 2002 for \$614,900 or \$161.05 per square foot of living area including land.

With regard to sales prices, Doetsch testified the assessor examines sales prices for the previous three year period for the entire neighborhood to arrive at sales ratio studies and then assesses to the median value; specifically, the assessor does not assess a given property based on its particular sale price. Nor does the assessor know if a property has an amenity such as high grade quality carpeting or a heated driveway which may raise the particular sale price, but does not factor into the assessment of

² In the board of review's grid analysis had an error indicating the subject was graded A-5.

³ Board of review comparables 1 and 2 had pro-rated 2003 building assessments due to mid-year completions, but the calculations presented in the grid were representative of a fully improved assessment according to the assessor's letter.

that particular property. Furthermore, he testified the assessor does not receive or consider recorded mortgage documents, but only examines the qualified sales data from the recorded transfer declarations.

In response to the appellants' evidence, the board of review presented its own grid of the appellants' six suggested comparables and also addressed the evidence in the letter prepared by the township assessor. Of the six suggested comparables, the assessor noted only comparables 1 and 2, which were assessed higher than the subject on a per square foot basis, were located in the subject's Beaver Creek subdivision whereas the remaining four comparables were located in different neighborhoods. There were primarily minor factual differences between appellants' grid and the board of review's version, except for the living area square footage of appellants' comparable 1 which appellants stated to be 3,500 square feet of living area and which the board of review stated to be 3,357 square feet of living area as testified to by Doetsch. Also as to the pool amenity of appellants' comparable 1, the deputy township assessor testified to the assessment methodology applied; for in-ground pools, a 50% functional obsolescence factor is applied immediately and the original cost applied by the assessor is typically much less than the actual cost of building a pool.

Of additional note, the board of review's version of appellants' comparable 3 referenced two sales of that property; a July 2002 sale for \$608,000 or \$160.08 per square foot of living area including land and a prior sale in May 2000 for \$478,000 or \$125.86 per square foot of living area including land.

On cross-examination, appellant George Kokkines sought to bring in evidence that the 2007 assessments of appellants' comparables outside of Beaver Creek were now lower than the 2007 assessment of the subject and therefore supportive of appellants' assertion that the 2003 assessment was excessive. The deputy township assessor did not have any 2007 data at the hearing and could not address the assertion other than to testify that, assuming all else is equal, similarly priced dwellings would be expected to have similar assessments.

The appellants' written rebuttal reiterated points made in appellants' case-in-chief with regard to the evidence presented by the board of review.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds that a reduction in the subject's assessment is not warranted.

As to dwelling sizes, the Board finds the best evidence in the record of the living area square footages of both the subject and

appellants' comparable 1 are the measurements taken and testified to by the deputy township assessor.

The appellants' initial argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellants have not overcome this burden.

The Board finds the parties submitted a total of eight equity comparables for the Board's consideration. Board of review comparable 1 has been given less weight in the Property Tax Appeal Board's analysis due to its all brick exterior construction compared to the frame and masonry construction of the subject. The Board finds the remaining seven comparables presented by both parties were similar to the subject in terms of style, age, location, size and/or most property characteristics. These properties had improvement assessments ranging from \$30.63 to \$40.01 per square foot of living area. The subject's improvement assessment of \$37.54 per square foot of living area falls within this range. When considering adjustments and differences in the suggested comparable properties when compared to the subject property, such as age and amenities, the Board finds the subject's improvement assessment is supported by these most similar comparables contained in the record. On the basis of the assessment equity information submitted by the parties, the Board finds that the evidence has not demonstrated that the subject property is assessed in excess of what equity would dictate. Therefore, the Property Tax Appeal Board finds that no reduction of the subject's assessed valuation is warranted based on lack of uniformity.

The Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implied equality in the burden of taxation." (Apex Motor Fuel, 20 Ill. 2d at 401) The Court in Apex Motor Fuel further stated:

the rule of uniformity . . . prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation omitted].

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call

. . . for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test. [citation omitted]

Apex Motor Fuel, 20 Ill. 2d at 401. In this context, the court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill. 2d at 21.

The appellants also argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2nd 1256 (2nd Dist. 2000). After analyzing the market evidence submitted, the Board finds the appellants have failed to overcome this burden.

The cornerstone of uniformity in assessment is the fair market value of the property. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d at 21, 544 N.E.2d at 771. This is properties with similar market values should have similar assessments.

The Board finds the parties submitted six comparable sales in support of their respective positions. The Board finds the appellants' contention of the market value for comparable 1 of \$740,000 based upon a totaled mortgage amount is insufficient to overcome the public records reflecting a purchase price of \$578,900 which is also referenced in Appellants' Ex. 2. There are five comparable sales in this record which are similar to the subject property in age, design, size and/or other amenities. The sales occurred between November 2001 and August 2003 for prices ranging from \$159.95 to \$177.63 per square foot of living area including land.

The Illinois Supreme Court defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428, (1970). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc, 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

Additionally, section 1-50 of the Property Tax Code defines fair cash value as:

The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50).

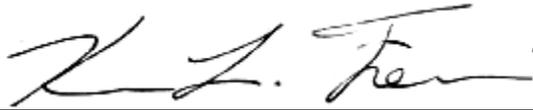
The Property Tax Appeal Board finds the best evidence of the subject's fair market value is its sale price in December 2002 for \$614,900 or \$161.05 per square foot of living area including land. This sale occurred merely a month before the assessment date at issue in this matter of January 1, 2003. For 2003 the subject property had an improvement assessment of \$37.54 per square foot of living area, similar to the range of the comparable sales properties presented. It is undisputed that the subject's assessment reflects a market value of \$556,444 which is below its recent sale price. As a result of this analysis, the Board finds the appellants have failed to demonstrate that the subject property was overvalued and a reduction is not warranted on this basis.

As to the alleged lack of due process appellant claimed occurred before the Lake County Board of Review, the jurisdiction of the Property Tax Appeal Board is strictly limited to determining the correct assessment of the subject property. (35 ILCS 200/16-180) The Board finds it does not have jurisdiction to address any alleged violations of due process which were alleged to have occurred before the Lake County Board of Review.

In conclusion, the Board finds the appellants have failed to prove unequal treatment in the assessment process by clear and convincing evidence, or overvaluation by a preponderance of the evidence, and that the subject's assessment as established by the board of review is correct and no reduction is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

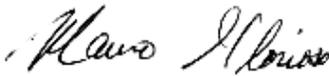
Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: April 24, 2009



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal

Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.