

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Robert W. Powers  
DOCKET NO.: 05-00744.001-R-1  
PARCEL NO.: 14-07-101-015

The parties of record before the Property Tax Appeal Board are Robert W. Powers, the appellant, and the Lake County Board of Review.

The subject property consists of a one and one-half story brick dwelling containing 4,332 square feet of living area that was built in 1988. The dwelling features four, full and two, half bathrooms; central air conditioning; two fireplaces; a partially finished basement; and a 954 square foot attached garage. The dwelling is situated on a 44,708 square foot golf course lot. The subject property is located in Wynstone Subdivision, a Jack Nicholas golf course gated community.

The appellant appeared before the Property Tax Appeal Board claiming both unequal treatment in the assessment process and overvaluation as the bases of the appeal. In support of these arguments, the appellant submitted photographs, property characteristic sheets, Multiple Listing Sheets, and an analysis of eight suggested comparables.

The comparables consist of a one and one-half story and seven, two-story dwellings of stone, brick, or brick and frame exterior construction that were built from 1994 to 2003. Seven comparables have full basements with finished areas ranging in size from 1,033 to 4,195 square feet. One comparable has an unfinished basement. Other features include central air conditioning, one to three fireplaces, and garages ranging in size from 808 to 1,297 square feet. The dwellings range in size from 3,833 to 6,322 square feet of living area and are situated on lots ranging in size from 36,110 to 66,665 square feet. Comparables 1 through 4 are situated on golf course lots like the subject. Comparables 4 through 8 are not situated on golf course lots. The comparables have improvement assessments ranging from \$240,108 to \$478,871 or from \$56.53 to \$77.62 per square foot of living area. The subject property has an improvement assessment of \$270,218 or \$62.38 per square foot of living area.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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:	\$	97,739
IMPR.:	\$	255,581
TOTAL:	\$	353,320

Subject only to the State multiplier as applicable.

The comparables sold from May 2003 to June 2005 for prices ranging from \$1,155,000 to \$3,937,500 or from \$258.65 to \$622.83 per square foot of living area including land. The appellant calculated that the comparables' total assessments reflect estimated market values ranging from \$920,742 to \$1,745,955, which range from 44.3% to 82.7% of their 2003 to 2005 sale prices. The appellant testified he purchased the subject property for \$1,075,000 in August 2003, just 16 months prior to the January 1, 2005, assessment date at issue in this appeal. However, the appellant argued the subject's assessment reflects an estimated market value of \$1,103,871 or 102.7% of its sale price, a considerably higher percentage of fair market value than the comparables. In summary, the appellant argued less expensive properties are assessed at a higher percentage of their fair cash value than the more expensive properties located within the subject's subdivision.

Additionally, the evidence revealed the appellant listed the subject property for sale for \$1,190,000 through a Realtor in May 2006. However, the appellant testified he has not received any offers to purchase. The appellant also argued there is no set formula and an inherent bias in assessing lesser expensive properties at a higher proportion of value within the subject's subdivision. Simply stated, the appellant argued more expensive properties are under-assessed and less expensive properties are over-assessed. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$367,957 was disclosed. The subject's assessment reflects an estimated market value of \$1,111,317 or \$256.54 per square foot of living area including land using Lake County's 2005 three-year median level of assessments of 33.11%.

In support of the subject's assessment, the board of review submitted property record cards, four suggested comparables, a location map, and a letter explaining the evidence prepared by the former township assessor. The present township assessor and deputy township assessor were in attendance at the hearing and offered testimony in support of the evidence submitted on behalf of the board of review. The letter, in partial summary, argued the evidence submitted by the appellant supports the subject's assessment.

The comparables submitted by the board of review are located on golf course lots located in close proximity to the subject. They consist of a one-story and three, one and one-half story dwellings of frame, brick, or brick and frame exterior construction that were built from 1989 to 1997. The comparables have partial finished basements ranging in size from 1,276 to 2,893 square feet. Other features include central air conditioning, two to four fireplaces, and garages ranging in size from 864 to 1,072 square feet. The dwellings range in size from 3,231 to 5,076 square feet of living area and are situated on

lots ranging in size from 37,742 to 56,609 square feet. The comparables have improvement assessments ranging from \$244,527 to \$343,329 or from \$63.55 to \$77.62 per square foot of living area. The subject property has an improvement assessment of \$270,218 or \$62.38 per square foot of living area.

Property record cards indicate comparables 2 through 4 sold from October 2000 to November 2004 for prices ranging from \$1,200,000 to \$1,880,000 or from \$236.41 to \$472.96 per square foot of living area including land. Their total assessments reflect estimated market values ranging from \$1,228,416 to \$1,325,865, which range from 65% to 110% of their 2000 to 2004 sale prices. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

After hearing the testimony and considering the evidence, 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 a reduction in the subject property's assessment is warranted.

The appellant argued the subject property was inequitably assessed. 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. The appellant's evidence also suggests the subject property is overvalued. 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.2d 1256 (2nd Dist. 2000). After an analysis of the evidence submitted, the Board finds the appellant has overcome these burdens of proof and a reduction is warranted.

First, the Property Tax Appeal Board finds the best evidence of the subject property's fair cash value is its August 2003 sale price of \$1,075,000, which occurred just 16 months prior the January 1, 2005, assessment date at issue in this appeal. The subject's assessment reflects an estimated market value of \$1,111,653, which is higher than its sale price. Therefore, a reduction is warranted. The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the seller 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 (1<sup>st</sup> 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). The Board finds this record is void of any evidence suggesting the subject's transaction was not of an arm's-length nature. Thus, the Board finds the best evidence of the subject's fair cash value is its sale price of \$1,075,000.

The Property Tax Appeal Board further recognizes the appellant's lack of uniformity premise within the subject's subdivision in that there is some inherent weakness in the assessment process by assessing lesser expensive properties at a higher proportion of their fair cash value when compared to the more expensive properties that are assessed proportionately less than their fair cash value. This inequitable process results in the uneven distribution of the ad valorem assessment burden within the subject's exclusive subdivision. The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. However, the evidence in this record demonstrates a consistent pattern of assessment inequities within the subject's assessment jurisdiction. The assessment equity 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 enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). The Property Tax Appeal Board finds it is evident no adjustment was made for a reasonable degree of assessment uniformity within the subject's subdivision and this appeal does not meet the test of a practical uniformity.

The Property Tax Appeal Board finds proof of uniformity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible market value evidence exists. The Illinois 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, implies 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.]

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.]" Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the Illinois Supreme 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 Board finds the evidence is clear that ten of the comparables submitted by the parties, which had varying degrees of similarity and dissimilarity, sold from October 2000 to November 2004 for prices ranging from \$1,200,000 to \$3,937,500. These same properties have 2005 improvement assessments ranging from \$240,108 to \$478,871 or from \$56.53 to \$77.62 per square foot of living area. The subject property sold for \$1,075,000 in 2003 and has a 2005 improvement assessment of \$270,218 or \$62.38 per square foot of living area. The Board finds the subject property sold for less than any of the comparables contained in this record, but does not have the lowest proportional assessment.

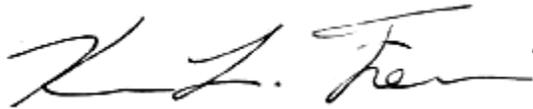
The Board finds there is a consistent pattern of evidence demonstrating that properties located in the subject's subdivision are assessed for consistently less than their sale prices, with the more expensive properties being consistently assessed at a lower proportion of their fair cash value. In fact, the Property Tax Appeal Board finds a preponderance of the market value and equity evidence submitted by the parties suggests the more expensive comparables are all under-assessed in relation to their fair market value, IN light of this fact, the Board finds the subject is entitled to this same proportional treatment. After considering adjustments to both parties' comparables for differences when compared to the subject, such as age, size, design, features, location (golf course), as well as market value considerations, the Property Tax Appeal Board finds the subject property is inequitably assessed in an excessive manner.

In conclusion, the Board finds the appellant demonstrated a lack of uniformity in the subject's assessment by clear and convincing evidence and overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is incorrect and a 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.

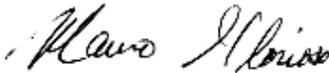


Chairman



Member

Member



Member



Member

DISSENTING:

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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: December 19, 2008



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.