

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Tim Fritzsche
DOCKET NO.: 05-01396.001-R-1
PARCEL NO.: 14-2-15-13-06-101-012

The parties of record before the Property Tax Appeal Board are Tim Fritzsche, the appellant; and the Madison County Board of Review.

The subject property consists of a two-story frame and brick dwelling containing 2,208 square feet of living area that was built in 1994. Features include an unfinished basement, central air conditioning, a fireplace, and an 872 square foot attached garage. The dwelling is situated on approximately 12,215 square feet of land area.

The appellant appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal. More specifically, the appellant argued county assessment officials failed to adequately reduce the subject's land and improvement assessments to account for mine subsidence. In support of these claims, the appellant submitted a letter explaining the appeal, a grid analysis detailing three suggested comparables, and a letter from a licensed professional geologist detailing the damage to the subject dwelling resulting from mine subsidence.

The comparables submitted by the appellant are located in close proximity to the subject. The comparables consist of a one-story dwelling and two, two-story dwellings of brick or brick and frame construction that were built in 1991 or 1993. The comparables have central air conditioning, one or two fireplaces, and garages ranging in size from 504 to 700 square feet. One comparable has a partial finished basement and two comparables have unfinished basements. The dwellings range in size from 2,060 to 2,388 square feet of living area. Prior to application of the township equalization factor of 1.01490, the comparables had improvement assessments ranging from \$32,250 to \$69,840 or from \$13.51 to

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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 Madison County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	11,550
IMPR.:	\$	34,850
TOTAL:	\$	46,400

Subject only to the State multiplier as applicable.

\$33.90 per square foot of living area. The subject property has an improvement assessment of \$34,340 or \$15.55 per square foot of living area prior to equalization.

The comparables are situated on lots ranging in size from 12,105 to 20,000 square feet of land area with land assessments, prior to equalization, ranging from \$770 to \$12,205 or from \$.04 to \$.93 per square foot of land area. The subject property has a land assessment of \$11,380 or \$.93 per square foot of land area prior to equalization.

The appellant acknowledged the subject property was part of the 2005 quadrennial reassessment, but argued the assessor failed to adjust the subject's land assessment for mine subsidence. The appellant opined the value of land suffering from mine subsidence decreases in value. No evidence to support this claim was submitted. The appellant noted comparable 1, which is two doors away from the subject, has a lower land assessment of \$770 due to mine subsidence. The appellant argued the subject's land assessment was lowered in 2002 due to mine subsidence. 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 final equalized assessment of \$46,400 was disclosed.

With respect to the appellant's evidence, the board of review noted the land assessment for the appellant's comparable 1 was incorrect for the 2005 assessment year due to a clerical error. The board of review submitted documentation indicting the appellant's comparable 1 has a land assessment of \$16,020 or \$.80 per square foot of land area for the 2006 assessment year. The board of review also argued comparable 1 is a dissimilar one-story dwelling when compared to the subject's two-story dwelling. The board of review further acknowledged comparable 1 suffers from mine subsidence and received a 55% debasement factor while the appellant's comparables 2 and 3 do not suffer from mine subsidence.

In support of the subject's assessment, the board of review submitted property record cards on four suggested comparables that suffer from mine subsidence. The comparables consist of one and one-half or two-story frame dwellings that were built in 1985 or 1986. Features include full unfinished basements, central air conditioning, one fireplace, and garages ranging in size from 576 to 725 square feet. The dwellings range in size from 2,030 to 2,669 square feet of living area. The comparables have debased improvement assessments for mine subsidence from 45% to 55%, which ranged from \$37,330 to \$65,510 or from \$15.36 to \$34.24 per

square foot of living area after application of the township equalization factor. The board of review argued the subject's improvement assessment, which was debased by 50% for mine subsidence, of \$34,850 or \$15.78 per square foot of living area is equitable and supported by its assessment comparables.

With regard to the appellant's inequity claim regarding the subject's land assessment, the board of review indicated its policy to make adjustments for properties with mine subsidence to only the improvement assessments with no adjustment to land assessments. This policy was imposed by the board of review because different township assessors used different standards in treating properties with mine subsidence. In support of the subject's land assessment, the board of review supplied the land sizes and assessments of its comparables in compliance with the Board's request. The comparables are situated on lots ranging in size from 11,733 to 25,771 square feet of land area with land assessments, subsequent to application of the township equalization factor, ranging from \$12,080 to \$14,110 or from \$.47 to \$1.13 per square foot of land area. The subject property has an equalized land assessment of \$11,550 or \$.95 per square foot of land area. Based on this evidence, the board of review requested confirmation of the subject'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 Board further finds no reduction in the subject's assessment is warranted.

The appellant argued 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 appellant has not overcome this burden.

The parties submitted seven assessment comparables for the Board's consideration. The Property Tax Appeal Board placed less weight on all three comparables submitted by the appellant. Although comparable 1 suffers from mine subsidence like the subject, this suggested comparable is a one-story style dwelling, dissimilar to the subject's two-story design. Although the appellant's comparables 2 and 3 are somewhat similar in physical characteristics when compared to the subject, these suggested comparables do not suffer from mine subsidence. Thus, these suggested comparables were given diminished weight in the Board's analysis.

The Property Tax Appeal Board also gave less weight to comparables 3 and 4 submitted by the board of review. These properties are one and one-half story style dwellings, dissimilar to the subject's two-story design. The remaining two board of review comparables are older in age than the subject, but are similar to the subject in size, design and amenities. These comparables have equalized improvement assessments, which are debased by 55% for mine subsidence, of \$37,330 and \$46,130 or \$16.37 and \$17.28 per square foot of living area. The subject property has an equalized improvement assessment, which is debased by 50% for mine subsidence, of \$34,850 or \$15.78 per square foot of living area. After considering adjustments to these comparables for differences when compared to the subject, such as their older age, the Board finds the subject's improvement assessment is lower than the most similar assessment comparables contained in this record on a proportionate basis. Therefore, the Board finds the subject's improvement assessment is supported and a no reduction warranted.

With respect to the subject's land assessment, the parties submitted seven suggested land comparables for the Board's consideration. The Board gave less weight to four suggested land comparables submitted by the parties due to their larger land sizes when compared to the subject. The Board finds the remaining three comparables to be most similar to the subject. They range in size from 11,733 to 14,400 square feet of land area with land assessments ranging from \$11,256 to \$13,260 or from \$.85 to \$1.13 per square foot of land area. The subject property, which contains 12,215 square feet of land area, has a land assessment of \$11,550 or \$.95 per square foot of land area. After considering adjustments to these comparables for differences when compared to the subject, the Board finds the subject's land assessment falls within the range established most similar assessment comparables contained in this record on a proportionate basis.

The Board further finds the appellant basically relied on one land comparable that has mine subsidence with a land assessment of \$770 in an attempt to demonstrate the subject's land was not uniformly assessed. First, the Board gave no weight to the board review's response that this suggested comparable's land assessment was incorrect for the 2005 assessment year due to clerical error, but was corrected for the 2006 assessment year. However, the Board finds an isolated example of one comparable assessed less than the subject that suffers from mine subsidence does not establish a lack of uniformity by clear and convincing evidence. Finally, the Property Tax Appeal Board finds the evidence and testimony revealed the board of review has a policy to only debase improvement assessments for properties that suffer

from mine subsidence. The Board finds the appellant submitted no market evidence to demonstrate this policy is incorrect or that land assessments for properties that suffer from mine subsidence, including the subject, do not reflect fair market value.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment inequity 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 evidence exists. 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, 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 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. Although the comparables presented by the parties disclosed that properties located in the same area are not assessed at identical levels, all that the constitution

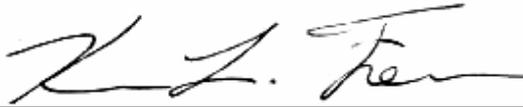
requires is a practical uniformity, which appears to exist on the basis of the evidence.

Based on this analysis, the Property Tax Appeal Board finds the appellant has not demonstrated a lack of uniformity in the subject's assessment by clear and convincing evidence. Therefore, the Board finds 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: October 26, 2007



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.