FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Stembridge Builders
DOCKET NO.: 06-00369.001-R-1
PARCEL NO.: 07-01-20-201-009-0000

The parties of record before the Property Tax Appeal Board are Stembridge Builders, the appellant(s), by attorney Kevin M. Gensler, of Dommermuth Brestal Cobine & West, Ltd., Naperville; and the Will County Board of Review.

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

LAND:	$65,300
IMPR.:	$167,580
TOTAL:	$232,880

Subject only to the State multiplier as applicable.

ANALYSIS

A consolidated hearing was held for the following appeals identified by docket numbers: 06-00364.001-R-1, 06-00365.001-R-1, 06-00367.001-R-1, 06-00369.001-R-1, 06-00370.001-R-1, 06-00371.001-R-1, 06-00373.001-R-1, 06-00374.001-R-1, 06-00375.001-R-1, 06-00376.001-R-1 and 06-00377.001-R-1. Of these appeals, the following are appeals challenging the land assessment: 06-00365.001-R-1, 06-00367.001-R-1, 06-00369.001-R-1, 06-00371.001-R-1, 06-00373.001-R-1 and 06-00377.001-R-1.

The subject property consists of a parcel improved with a two-story dwelling with features that include a basement and a three-car attached garage. The property is located in the Ashwood Creek subdivision, Naperville, Wheatland Township, Will County.

The appellant's counsel appeared at the hearing contending the assessment of the parcel was excessive. The appellant presented no evidence or testimony challenging the improvement assessment in this appeal. On the appeal form the counsel had marked recent sale, comparable sales and assessment equity as the bases of the appeal. At the hearing counsel called Hal Stembridge as a

witness. Stembridge is the President of Stembridge Builders the owner of the subject property.

Stembridge testified he submitted valuations for the subdivision from a complete list of sales including the prices, dates of sale and buyers. The witness testified the original developer of the subdivision was Oliver Hoffman and The Macom Corporation, LLC (OHCMC, LLC).

Stembridge testified there were 36 lots out of the 140 lots sold in the subdivision that were being assessed at $4,394. He testified that these were second or third buyers and not the original developer that were receiving this $4,394 assessment. He was of the opinion each of the vacant lots under appeal should be assessed at $4,394 but asserted he was not seeking "developer relief." [1]

Under cross-examination the witness testified the evidence he prepared and submitted for each of the vacant lot appeals was the same. He identified a list of sales of lots in the subdivision that sold in 2004, 2005 and 2006. He testified he obtained this list from developer who provided an affidavit. A review of the affidavit signed by Paul J. Lehman of The Macom Corporation makes reference to Exhibit A and Exhibit B. Exhibit A purportedly contained information by closing date and Exhibit B purportedly contained the same information by lot number. The appellant did not submit any documents attached to the affidavit identified as either Exhibit A or Exhibit B. The board of review objected to the affidavit based on hearsay and the inability to question Mr. Lehman. The Property Tax Appeal Board sustains the objection.

The list that was submitted by the appellant indicated the sales prices for the lots in 2004 ranged from $190,000 to $212,900; the sales prices for the lots in 2005 ranged from $190,200 to $210,900; and the prices for the lots in 2006 ranged from $202,800 to $232,000.

Additionally, the list of purported sales included the purchase by the appellant of the various lots under appeal. The evidence and testimony provided by Stembridge disclosed that each of the subject vacant lots was closed on December 22, 2004 for the following prices:

Docket No.	Parcel No.	Lot No.	Price
06-00365.001-R-1	07-01-20-206-008-0000	110	$195,000
06-00367.001-R-1	07-01-20-207-014-0000	54	$196,800
06-00369.001-R-1	07-01-20-201-009-0000	115	$198,200
06-00371.001-R-1	07-01-20-204-036-0000	1	$192,500

[1] The so called "developer's relief assessment" is found at Section 10-30 of the Property Tax Code (35 ILCS 200/10-30), which provides for a preferential land assessment in platted and subdivided vacant land in transition under certain circumstances.

06-00373.001-R-1	07-01-20-208-018-0000	22	$195,000
06-00377.001-R-1	07-01-20-204-020-0000	135	$200,000

The combined prices of the lots totaled $1,177,500 with an average purchase price of $196,250 and a mean purchase price of $195,900. Some of these prices were further corroborated by a copy of a closing statement submitted by the appellant indicating a date of contract of July 13, 2004 and a date of actual closing of December 22, 2004. The copy of the closing statement did not contain the signature of either the purchaser or seller. The Property Index Numbers (P.I.N.) listed on the closing statement did not correspond with the parcel numbers under appeal and omitted Lot 115; however, the purchase prices matched the remaining lots identified by the appellant.

The appellant further submitted computer printouts for properties for tax year 2005; five pages of a Will County Change Record Form for Tax Levy Year 2005 listing parcels to be added to the assessment rolls for Ashwood Creek Subdivision Unit 1; four pages of a Will County Change Record Form for Tax Levy Year 2006 listing parcels to be added to the assessment rolls for Ashwood Creek Subdivision Unit 2 and Unit 3; and printouts of Will County Property Record Cards from the Will County Supervisor of Assessments website containing 2006 assessment information for various lots in the subdivision. These printouts disclosed that five parcels had land assessments of $3,945; two parcels had land assessments of $4,136; twenty-eight parcels had land assessments of $4,394; thirty-one parcels had a land assessment of $76,000; and thirty-six parcels had land assessments of $80,735.

Under further cross-examination Stembridge testified that he calculated the average sales prices of the lots in 2004 to be $198,000 and the average sales prices of the lots in 2005 was $197,000. He also acknowledged that he submitted a sale of two lots to Bart Development, LLC, which closed in January 2006 for a price of $443,000 or $221,500 per lot. Stembridge further testified that when he purchased the subject parcels there was no negotiation with the developers on the purchase price.

Stembridge was also questioned about the disclaimer on the website where he obtained the assessment information but could not recall it stating that information was provided for informational purposes only and could not be used as evidence.

Stembridge also testified that he was not aware the $4,394 land assessment was the "developer's relief assessment." The witness was of the opinion that none of the lots were receiving the model home exemption for that year.

Under re-direct examination the appellant reiterated he was not asking for a developer's relief assessment. He was simply requesting that the lower assessment given to other parcels be given to him as well.

Based on this evidence the appellant requested the subject's land assessment be reduced to $4,394.

The board of review submitted its "Board of Review Notes on Appeal" wherein its land assessment of the subject of $80,735 was disclosed. The subject's land assessment reflects a market value of $242,375 using the 2006 three year median level of assessments for Will County of 33.31%.

The board of review called as a witness Kelli Lord, Wheatland Township Assessor. Ms. Lord testified the vacant parcels under appeal had full assessments based on sales in the subdivision. She testified she gathered the sales together and used the best market value indicator. Lord further testified that the subject parcels under appeal were not entitled to the "developer's exemption." The witness explained that the land assessment of $4,394 reflects a developer's relief assessment. She testified there were other properties in the development that qualified for the developer's relief because they were owned by the original developer. Ms. Lord further acknowledged that there were lots in the development that had incorrectly received the developer's exemption, which was corrected in 2007. She also testified there were properties in the development that were receiving the model home exemption and further explained they would have had a land assessment of $4,394 if the original developer owned the property. The witness testified in 2006 she did her best to incorporate the difference between developer's relief assessments and full market value assessments and in 2007 she was able to correct all the incorrect assessments.

In a written statement submitted with the board of review evidence, Ms. Lord explained that of the referenced 32 lots receiving the developer's exemption, 5 were purchased in 2006 which would not allow them to increase the land assessment until 2007. She further stated that several lots were purchased in 2005 and they were unable to increase the assessments on those parcels without the builder signing a certificate of error (C of E). She also submitted 9 examples where the appellant was receiving the developer's exemption beyond the time that the parcels were eligible for the preferential assessment.

Under cross-examination Ms. Lord stated that she could not comment on the accuracy of the information taken from the internet from the Supervisor of Assessments Office because it is not her information.

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 the appeal. The Board further finds the evidence in the record supports a reduction in the assessment of the subject property.

The appellant argued in part overvaluation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of

Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted on this basis.

The record contains of listing of sales of vacant lots located in the subject's subdivision that occurred in 2004, 2005 and 2006. Additionally, the appellant identified the sales prices of six of the lots under appeal that closed in December 2004. These sales had prices ranging from $192,500 to $200,000. The average purchase price of the subject lots was $196,250 and the mean purchase price was $195,900. The subject's land assessment reflects a market value of $242,375 using the 2006 three year median level of assessments for Will County of 33.31%, which the Property Tax Appeal Board finds is excessive in light of the prices paid for the various lots.

The appellant also argued assessment inequity. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments 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 did not meet this burden and a reduction is not warranted on this basis.

The appellant identified numerous properties that were receiving land assessments of $4,394 and requested the subject's assessment be accordingly reduced. However, the testimony provided by the township assessor was that this assessment was based on the so called "developer's relief assessment."[2] The evidence also disclosed that the appellant's lot did not qualify for the developer's land assessment and the appellant's witness testified he was not requesting a developer's assessment. The uniformity clause of the 1970 Illinois Constitution (Ill.Const. 1970, art. IX, 4(a)) requires taxation to be uniform as to the class upon which it operates. People ex rel. Bosworth v. Lowen, 102 Ill.2d 242, 248 (1984). In this appeal the appellant was comparing properties to the subject property that were receiving assessments under a different classification or statutory basis. Due to this difference, the appellant has not shown the assessments were in violation of the uniformity requirement of the Illinois Constitution. Although testimony provided by the township assessor was that some ineligible lots were receiving the preferential developer's land assessment in 2006, the Board finds this is not a basis for allowing the subject lot to be incorrectly assessed using the developer's assessment.

[2] Section 10-30 of the Property Tax Code gives a preferential assessment for acreage that is in transition from vacant land to a residential, industrial or commercial use. (35 ILCS 200/10-30).

In conclusion, the Property Tax Appeal Board finds a reduction to the subject's land assessment based on overvaluation is justified.

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: December 3, 2010

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.