



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Mark C. Rich
DOCKET NO.: 06-00730.001-R-1
PARCEL NO.: 14-2-15-28-01-102-001

The parties of record before the Property Tax Appeal Board are Mark C. Rich, the appellant, and the Madison 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 Madison County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$13,050
IMPR.: \$55,780
TOTAL: \$68,830

Subject only to the State multiplier as applicable.

ANALYSIS

The subject irregular corner lot of 31,368 square feet has been improved with a 14-year-old, one and one-half-story frame and brick single family dwelling consisting of 1,836 square feet of living area. Features include a full unfinished basement, central air conditioning, one fireplace, a screened porch, and an attached two-car garage. The property is located in Glen Carbon, Edwardsville Township, Madison County.

In support of this overvaluation complaint, the appellant filed an appraisal with the Property Tax Appeal Board. The evidence further revealed that the appellant did not file a complaint with the board of review, but filed an appeal directly to the Property Tax Appeal Board following receipt of the notice of an equalization factor raising the total assessment of the subject property from \$68,830 to \$75,350. The equalized assessment reflects an estimated market value for the subject property of approximately \$226,050.

The purpose of the appraisal was to estimate the subject's market value as of June 3, 2003, both before and after a partial taking for certain roadway improvements and the intended use of the appraisal is to estimate the damages incurred as a result of this taking for possible litigation. In a cover letter submitted with the appeal, the appellant reported that "over the last four years" nearly 3,000 square feet of the subject parcel has been taken by the Illinois Department of Transportation for raising and widening of Illinois Route 157 from two-lanes to five-lanes.

The appraisal indicates the subject parcel consists of 34,220 square feet of land area. The appraisal report prepared by Ernest A. Demba and Diane M. Favazza of Demba Valuation Services, LLC in Ballwin, Missouri opines a June 3, 2003 value before damages of \$204,100 based on the sales comparison approach to value and a value after damages of \$150,400 based on the sales comparison approach to value.

The appraisers set forth three sales comparables, one of which was in the subject's subdivision and the other comparables were ½ mile and 2 miles from the subject, respectively. Each of the comparables consisted of an improved parcel ranging in size from 11,250 to 15,191 square feet of land area. The properties were improved with one and one-half-story frame or frame and masonry dwellings that were built in 1990 and 1997. The comparables featured full basements, one of which was a walkout style and partially finished including a bathroom. Each comparable had a fireplace and a two-car or three-car garage. The comparables sold from December 2002 to September 2003 for purchase prices ranging from \$215,000 to \$254,900 or from \$94.07 to \$103.07 per square foot of living area including land. The appraiser made adjustments to the comparable sales for differences in acreage, topography, marketability (location along the highway), living area square footage, basement finish, garage size, and differences in other amenities from the subject. After adjustments, the appraisers concluded adjusted sale prices for the comparables ranging from \$192,835 to \$218,106 or from \$76.22 to \$99.84 per square foot of living area including land. The appraisers then concluded an estimated fair market value of the subject of \$204,100 or \$111.17 per square foot of living area including land.

As to the condemnation for roadway expansion, the appraisers described that a strip of land was being taken from the subject parcel's rear yard ranging from 13 feet wide at the southern most point (nearest the corner) to 9 feet wide at the northern most property line totaling about 2,852 square feet. The appraisers described the damage to the subject parcel consisting of the removal of green space or a buffer area along both the side of the subject lot and along Route 157. The appraisers noted the taking amounts to an 8.3% reduction in the size of the parcel to 31,368 square feet of land area. Utilizing the same three sales comparables, the appraisers made further adjustments to the comparables with the subject's land size modified. After adjustments for land size difference and the loss of

marketability due to being situated closer to the highway and loss of green space, the appraisers concluded adjusted sale prices for the comparables ranging from \$138,809 to \$163,334 or from \$54.87 to \$76.65 per square foot of living area including land. The appraisers then concluded an estimated fair market value of the subject of \$150,400 or \$81.92 per square foot of living area including land.

The board of review submitted its "Board of Review Notes on Appeal" as required by the Property Tax Appeal Board wherein the subject's final equalized assessment of \$75,350 was disclosed. The final assessment of the subject property reflects a market value of approximately \$226,140 or \$123.17 per square foot of living area including land using the 2006 three-year median level of assessments for Madison County of 33.32% as determined by the Illinois Department of Revenue. In addition, the board of review submitted an addendum noting that as of the filing of the notes, the appellant still had a lawsuit pending seeking \$50,000 in additional damages after the conclusion of the condemnation proceedings for the road widening project.

In the addendum, the board of review further acknowledged that in 2006 the township assessor made a 10% downward adjustment for location due to the taking and widening of the road. In response to the appraisal, the board of review argued that the 2003 opinion of value before the taking should have upward time adjustments of 5% per year for 2004 and 2005 resulting in a January 1, 2006 value estimate prior to the taking of \$225,020 which supports the current assessment.

In addition, the board of review submitted an undated listing of one comparable located in the subject's subdivision for \$299,900; the only date on the listing stated it was current as of May 8, 2008, more than two years after the valuation date at issue in this matter. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence submitted by the parties, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

Based upon the evidence submitted, the Board finds that a reduction in the subject's assessment is supported. However, the record indicates that the appellant did not file a complaint with the board of review but appealed the assessment directly to the Property Tax Appeal Board based on notice of an equalization factor. Since the appeal was filed after notification of an equalization factor, the amount of relief that the Property Tax Appeal Board can grant is limited. Section 1910.60(a) of the Official Rules of the Property Tax Appeal Board states in part:

If the taxpayer or owner of property files a petition within 30 days after the postmark date of the written notice of the application of final, adopted township

equalization factors, the relief the Property Tax Appeal Board may grant is limited to the amount of the increase caused by the application of the township equalization factor. 86 Ill.Admin.Code §1910.60(a). [Emphasis added.]

Additionally, Section 16-180 of the Property Tax Code (35 ILCS 200/16-180) provides in pertinent part:

Where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalization factor assigned to all property or to a class of property by the board of review, the Property Tax Appeal Board may not grant a reduction in the assessment greater than the amount that was added as the result of the equalization factor. [Emphasis added.]

These provisions mean that where a taxpayer files an appeal directly to the Property Tax Appeal Board after notice of application of an equalization factor, the Board cannot grant an assessment reduction greater than the amount of increase caused by the equalization factor. Villa Retirement Apartments, Inc. v. Property Tax Appeal Board, 302 Ill.App.3d 745, 753 (4th Dist. 1999). Based on a review of the evidence contained in the record, the Property Tax Appeal Board finds a reduction in the assessment of the subject property is supported. However, the reduction is limited to the increase in the assessment caused by the application of the equalization factor.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mark Morris

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: January 26, 2010

Allen Castrovillari

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.