

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Suzanne and Ron Dirsmith
DOCKET NO.: 06-01001.001-R-1
PARCEL NO.: 16-23-105-003

The parties of record before the Property Tax Appeal Board are Suzanne and Ron Dirsmith, the appellants, and the Lake County Board of Review.

The subject parcel of 14,234 square feet has been improved with a two-story frame and stucco single-family dwelling which was built in 1930 and a one-story building of brick exterior construction built in 1974 and described as a "family room." The two-story dwelling contains 1,989 square feet of living area and the separate one-story building contains 1,244 square feet of living area for a total living area of the improvements of 3,233 square feet of living area. Features of the dwelling include central air conditioning, one fireplace, a full, unfinished basement of 1,090 square feet of building area, and an attached one-car garage of 260 square feet of building area. Features of the second building include central air conditioning, one fireplace, and plumbing fixtures including a water heater, kitchen sink and three-fixture bathroom. The subject property is located in Highland Park, Moraine Township, Illinois.

The appellants submitted evidence to the Property Tax Appeal Board claiming unequal treatment in the assessment process and overvaluation regarding both the subject's land and improvements as the bases of the appeal. In addition, the appellants also cited a favorable decision of the Property Tax Appeal Board regarding the subject property rendered in Docket No. 04-00959.001-R-1 on August 8, 2006.

Appellants filed the instant appeal regarding the 2006 assessment of the subject property within 30 days of the issuance of the final decision of the Lake County Board of Review mailed on February 20, 2007. Appellants acknowledged in their documentation that 2006 was a different quadrennial reassessment cycle for the township than the 2004 assessment, but contend that the assessor should have reviewed the subject's assessment in light of the favorable decision rendered in Docket No. 04-

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

LAND:	\$	124,854
IMPR.:	\$	119,792
TOTAL:	\$	244,646

Subject only to the State multiplier as applicable.

00959.001-R-1 on August 8, 2006 with regard to the 2004 assessment of the subject property. For 2004, the Property Tax Appeal Board rendered a decision lowering the subject's total assessed value to \$197,286. For 2005, the subject's total equalized assessment was said to be \$224,117.

Appellants assert for purposes of the 2006 reassessment where in the total assessment was found to be \$244,646, the Moraine Township Assessor applied a uniform 9% increase across the board for the quadrennial reassessments for all residential properties in the subject's immediate area, not on the lake. Since the township assessor did not have the "corrected" 2004 assessment in his computer records, namely, the property record card for the subject,¹ appellants contend that the 2006 quadrennial reassessment of the subject did not correctly consider the "base" assessed value of the subject as found by the Property Tax Appeal Board for 2004. Based on that error, the appellants assert the 2006 reassessment for the subject property resulted in a 24% increase in assessed value instead of the 9% increase for neighboring properties.

In support of both the inequity and overvaluation claims made by the appellants, they submitted a single grid analysis of three suggested comparable properties located in the immediate vicinity of the subject property. The data provided included descriptions, assessment, and sales information.

In support of the land inequity argument, the comparable parcels were said to range in size from 12,436 to 15,815 square feet of land area. These properties were said to have land assessments ranging from \$44,956 to \$86,032 or from \$2.84 to \$6.44 per square foot of land area. The subject has a 2006 land assessment of \$124,854 or \$8.77 per square foot of land area. In this appeal, appellants requested a reduction in their land assessment to \$109,745 or \$7.71 per square foot of land area.

In support of the improvement inequity argument, the comparables were reported to consist of one and one-half-story or two-story style frame and stucco or masonry and frame dwellings that were built between 1898 and 1962. The dwellings were said to range in size from 2,660 to 3,210 square feet of living area. Features of the comparables included central air-conditioning, one fireplace, and full basements, one of which included finished area. No data was supplied concerning garages. As stated in the grid analysis, these properties had improvement assessments ranging from \$83,695 to \$104,271 or from \$26.07 to \$39.20 per square foot of living area. The subject has an improvement assessment of \$119,792 or \$37.05 per square foot of living area. In this appeal, appellants requested a reduction in the improvement assessment to \$105,296 or \$32.57 per square foot of living area.

¹ By letter dated October 10, 2006, the Chief Deputy Assessor of Moraine Township advised appellants that "[i]t is beyond the capabilities of this office to reflect a prior year Property Tax Appeal Board in your electronic record. The material you sent, however, will be maintained in your file."

In support of the overvaluation argument, the appellants submitted sales information on all three of the comparables used to support the inequity argument. The comparables sold between March 1999 and January 2002 for prices ranging from \$500,000 to \$585,000 or from \$155.76 to \$219.92 per square foot of living area including land.

In summary, appellants requested reductions in their land and improvement assessments so as to reflect the favorable 2004 Property Tax Appeal Board decision plus about a 9% increase so that the 2006 assessment would be reduced to a total of \$215,041.

On cross-examination, the appellants acknowledged that their comparable 1 was receiving a Historic Residence Assessment Freeze in accordance with Section 10-40 of the Property Tax Code (35 ILCS 200/10-40).

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total 2006 assessment of \$244,646 was disclosed. In its data, the board of review incorrectly described the subject dwelling as brick.

The board of review presented its witness, Peter Koukos the Moraine Township Assessor who testified that both 2005 and 2007 were quadrennial reassessment cycles in his township because the county board decided to have all 18 townships on the same quadrennial reassessment cycle.

In support of the subject's 2006 assessment, the board of review submitted a letter prepared by Koukos and two grid analyses separately addressing equity and market value along with applicable property record cards for suggested comparables in each grid. In addition, the board of review presented a grid analysis of the appellants' three comparables along with the applicable property record cards.

For the equity argument and in support of the subject's land assessment, the board of review submitted information on three comparables located in the same assessor's assigned neighborhood code as the subject and one of which was on the subject's street. The comparable lots ranged in size from 12,436 to 16,275 square feet and had land assessments ranging from \$112,569 to \$147,319 or \$9.05 per square foot of land area. The land assessment of the subject was \$124,854 or \$8.77 per square foot of land area.

In support of the subject's improvement assessment, the board of review's equity grid analysis indicated these three comparables consisted of two-story style frame or stucco dwellings that were built between 1924 and 1960. Features of the comparables included central air-conditioning, one fireplace, unfinished basements, and garages that contained from 441 to 704 square feet of building area. The dwellings ranged in size from 3,136 to 3,304 square feet of living area and had improvement assessments

ranging from \$137,995 to \$168,091 or from \$43.66 to \$50.88 per square foot of living area.

In the board of review's grid analysis based on market value, the comparables consisted of three properties, one of which is located in the subject's neighborhood code. The comparables consisted of two-story frame or stucco dwellings built between 1907 and 1929. Two of the dwellings featured central air conditioning and each had one or two fireplaces and an unfinished basement. Each comparable had a garage ranging in size from 240 to 660 square feet of building area. The comparables contained between 2,356 and 3,136 square feet of living area and sold between July 2003 and November 2004 for prices ranging from \$700,000 to \$910,000 or from \$290.18 to \$302.20 per square foot of living area, including land. The subject has an estimated market value of \$736,220 or \$227.72 per square foot of living area including land, as reflected by its assessment and Lake County's 2006 three-year median level of assessments of 33.23%.

Also, in response to the appellants' grid analysis, the board of review reiterated the appellants' suggested comparables and presented the underlying property record cards for those comparables. Based on the property record cards, appellants presented numerous errors in their grid analysis. For instance, comparable 2 contained 2,663 square feet of living area and a basement of only 819 square feet of building area, of which 480 square feet was finished as a recreation room. Comparable 1 was constructed in 1925, not 1898 as reported by appellants. Appellants' comparable 3 was a dwelling consisting of 3,161 square feet of living area with an unfinished basement of 1,120 square feet of building area. Appellants did not report that both comparables 2 and 3 had garages of 552 and 441 square feet of building area, respectively.

The most notable discrepancy presented by the board of review's grid was the appellants' use of the 2003 land and improvement assessments for comparables 2 and 3. Analyzing appellants' comparables 2 and 3 with their respective 2006 assessments results in the following findings: comparable 2 had a land assessment of \$120,960 or \$9.05 per square foot of land area and an improvement assessment of \$111,715 or \$41.95 per square foot of living area; and comparable 3 had a land assessment of \$112,569 or \$9.05 per square foot of land area and an improvement assessment of \$137,995 or \$43.66 per square foot of living area. Lastly, the board of review noted that appellants' comparable 1 in 2006 was receiving a historical rehabilitation exemption and thus was not being assessed at its full value.

Based on the foregoing evidence, the board of review requested the subject's total assessment be confirmed.

In written rebuttal, the appellants reiterated their concern that the Moraine Township Assessor did not acknowledge the 2004 favorable decision of the Property Tax Appeal Board of \$197,286 when the 2006 assessment was issued for \$244,646.

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.

Contrary to the "Important Notice" issued with the Property Tax Appeal Board's decision rendered in Docket No. 04-00959.001-R-1 on August 8, 2006, the appellants did not:

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.

[Capitalization and emphasis in original.] Instead, based on the evidence presented in this matter, after receiving the favorable decision, the appellants sent a letter to the Lake County Board of Review dated August 11, 2006 requesting correction of the records and property tax relief for both 2003 and 2004. The Property Tax Appeal Board finds that appellants did not file an appeal directly with the Property Tax Appeal Board for the 2005 assessment year within 30 days of the date of the favorable decision. More importantly, appellants appear to be misplacing reliance upon the 2004 favorable decision of the Property Tax Appeal Board for years subsequent to 2004.

The Property Tax Code makes clear that appellants' reliance on the Board's 2004 decision in 2005 and thereafter is wholly misplaced. More particularly, Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. [Emphasis added.]

The testimony was clear that the general assessment period which included the decision rendered on Docket No. 04-00959.001-R-1 ended with that decision on the 2004 assessment. Moreover, new reassessment cycles began in both 2005 and 2007. The Property Tax Appeal Board further finds Section 9-75 of the Property Tax Code provides that the township assessor may **in any year**, revise and correct an assessment as appears to be just [emphasis added].

(35 ILCS 200/9-75). Section 9-75 of the Property Tax Code provides:

The chief county assessment officer of any county with less than 3,000,000 inhabitants, or the township or multi-township assessor of any township in that county, may in any year revise and correct an assessment as appears to be just. Notice of the revision shall be given in the manner provided in Sections 12-10 and 12-30 to the taxpayer whose assessment has been changed. (35 ILCS 200/9-75).

The Board also finds Section 9-75 of the Property Tax Code (35 ILCS 200/9-75) clearly grants power to the chief county assessment officer and the township assessor to revise and correct individual assessments as appears to be just. In addition, Section 9-205 of the Property Tax Code grants the township assessor the authority to equalize assessments by stating:

When deemed necessary to equalize assessments between or within townships or between classes of property, or when deemed necessary to raise or lower assessments within a county **or any part thereof to a level prescribed by law**, changes in individual assessments **may be made by a township assessor** or chief county assessment officer, under Section 9-75, by application of a percentage increase or decrease to each assessment. (35 ILCS 200/9-205).

The Board further finds the Property Tax Code requires boards of review to review and approve any assessment changes initiated by the assessor. Section 9-80 of the Property Tax Code provides in part:

All changes and alterations in the assessment of property shall be subject to revision by the board of review in the same manner that the original assessments are reviewed. (35 ILCS 200/9-80).

Thus, the Property Tax Appeal Board finds the framework of the Property Tax Code sets forth broad authority of assessors and boards of review to review, change, and equalize individual assessments. The Board finds there is nothing in this record to establish that this framework was not followed in establishing the assessment of the subject property under appeal.

One of the appellants' arguments 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.

Regarding the land inequity contention, the Board finds the parties submitted a total of six comparables. Appellants' comparable 1 being under a specialized historic residence exemption has been given less weight in the Property Tax Appeal Board's analysis. Considering the corrected 2006 assessment data for the appellants' comparables as supplied by the board of review, the Property Tax Appeal Board finds the five comparables submitted by both parties had land assessments of \$9.05 per square foot of land area. The subject's land assessment of \$8.77 per square foot falls below the land assessments of all of the comparables presented by both parties, with the exception of the property subject to a historical rehabilitation exemption. Based on the foregoing evidence, the Property Tax Appeal Board finds the evidence in the record supports the subject's land assessment and no reduction is warranted.

As to the improvement inequity argument, the Board finds the parties submitted a total of six comparables. Again, the appellants' comparable 1 has been given reduced weight by the Board in its analysis due to its historical exemption status. Additionally, the Board has given reduced weight to appellants' comparable 2 and board of review comparable 2 due to their construction in 1962 and 1960, respectively, making these dwellings newer than the subject main dwelling. Utilizing the 2006 assessment data for all of the comparables, the Board finds the remaining three comparables presented were most similar to the subject in terms of age, design, location, size, foundation, and most property characteristics. These comparables had improvement assessments ranging from \$41.95 to \$45.67 per square foot of living area. The subject's improvement assessment of \$37.05 per square foot of living area is below the range of these most similar comparables presented on this record. The Board thus finds the evidence in the record does not warrant a reduction in the subject's improvement assessment.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation 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). Although the comparables presented by the appellants 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.

The appellants also argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value

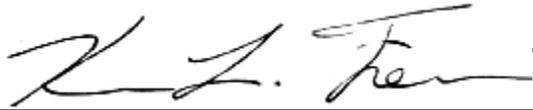
must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2nd 1256 (2nd Dist. 2000). After analyzing the market evidence submitted, the Board finds the appellants have failed to overcome this burden.

The Board finds both the appellants and the board of review each submitted three comparable sales for consideration. The Board has given less weight to all three of the appellants' comparable sales due to their distance in time from the assessment date at issue of January 1, 2006. Appellants' suggested sales occurring between March 1999 and January 2002 simply do not provide an accurate gauge of the market values of properties in 2006. In considering the three sales comparables presented by the board of review, the Board has given less weight to board of review comparable 3 due to its substantially smaller size than the subject property. The Board finds the remaining two sales comparables presented by the board of review to be similar to the subject in age, style, exterior construction, size, and features. These two comparables sold in July 2003 and July 2004 for \$825,000 and \$910,000, respectively, or \$290.18 and \$302.20 per square foot of living area, including land. The subject has an estimated market value of \$736,220 or \$227.72 per square foot of living area including land, as reflected by its assessment and Lake County's 2006 three-year median level of assessments of 33.23%. Based on the foregoing market value evidence of the most similar comparables on this record, the Board finds the market value evidence does not support a reduction in the subject's 2006 assessment.

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.

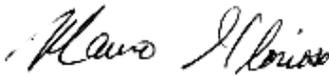
Chairman



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.