



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

APPELLANT: Goranco Gjeorgievski
DOCKET NO.: 06-01074.001-R-1
PARCEL NO.: 09-27-126-003

The parties of record before the Property Tax Appeal Board are Goranco Gjeorgievski, the appellant, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 6,070
IMPR.: \$75,930
TOTAL: \$82,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a part one-story and part two-story dwelling of frame construction containing 2,426 square feet of living area. The dwelling is 4 years old. Features of the home include a crawl-space foundation, central air conditioning, a fireplace, and a two-car attached garage with 462 square feet. The property is located in McHenry, McHenry Township, McHenry County, Illinois.

The appellant appeared before the Property Tax Appeal Board arguing unequal treatment in the assessment process with regard to the improvement; no dispute was raised concerning the land assessment. In support of the inequity argument, the appellant submitted information on three comparable properties set forth in a grid analysis and data sheets on three additional properties. Appellant also argued in a letter that neighboring properties have seen uniform assessment increases from 2004 to 2006 of 16% whereas the subject has had a 29% increase.

As set forth in the grid, three comparable properties were located within one block of the subject; the location of the other three comparables was not provided in the data, but each is on the same street as the subject property. The comparables were described as four, split-level, one, one and one-half story, and one, part one-story and part two-story frame or frame and masonry

dwellings that range in age from 2 to 70 years old. Two comparables have basements of 1,360 and 1,674 square feet, respectively. Four comparables have central air conditioning and a fireplace. Four comparables have a garage. One comparable also has a shed. The comparable dwellings range in size from 1,620 to 3,556 square feet of living area. The comparables have improvement assessments ranging from \$50,855 to \$78,484 or from \$17.07 to \$31.39 per square foot of living area. The subject's improvement assessment is \$83,264 or \$34.32 per square foot of living area. Appellant reported comparables #1 and #2 set forth in the grid analysis sold in August and December 2005 for \$250,000 and \$277,000, respectively, or for \$70.30 and \$109.92 per square foot of living area including land, respectively. The appellant also reported the subject property was purchased in an arm's-length transaction through the use of a Realtor in November 2004 for \$246,000 or \$101.40 per square foot of living area including land. Based on this evidence, the appellant requested a 13% reduction in the subject's improvement assessment to \$75,065 or \$30.94 per square foot of living area. The reduced total assessment for the subject would reflect an estimated market value of approximately \$243,405 or \$100.33 per square foot of living area including land.

The appellant was cross-examined about why he felt the comparables he selected were similar to the subject in terms of what a buyer might be looking for when seeking to purchase a property, in particular with regard to the age of the property; appellant explained that in his own search to purchase a property, which led to his purchase of the subject, there were no other properties available in the subject's area at the time, but he was looking at other properties in other areas. Appellant was also asked if he knew the total 2004 assessment for the subject property which he did not know.¹

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$89,334 was disclosed. The assessment reflects an estimated market value of \$268,190 or \$110.55 per square foot of living area including land utilizing the 2006 three-year median level of assessments for McHenry County of 33.31%. In support of the subject's assessment, the board of review presented a letter from Carol L. Perschke, McHenry Township Assessor, along with property record cards for the six comparables presented by the appellant and called the assessor for testimony.

Assessor Perschke testified that, based on a neighborhood analysis using sales ratios which had continued to be low in the subject's area, the assessment of the subject property along with surrounding properties were adjusted. The subject's assessment

¹ The property characteristics sheet for the subject included in the appellant's evidence reflects a total 2004 assessment of \$69,950 or an estimated market value of approximately \$209,850. That same sheet shows in 2005 the total assessment was \$82,389 or a market value of approximately \$247,167.

was increased from 2004 to 2005 from a total equalized assessment of \$69,950 to \$82,389 to reflect 1/3 of fair market value. She further testified that the sales ratio in the immediate area of 99 sales with sales dates from January 1, 2005 through December 31, 2006 resulted in a median sales ratio of 28.627%. She further testified that with sales data from January 1, 2005 through December 31, 2007, the area was still not at 33 1/3% of fair market value.

Also among the board of review's data was a grid to support that properties which sold, even though the properties are older and smaller than the subject, have similar per square foot assessments to the subject. The grid consists of three, split-level and one, one-story dwelling of frame exterior construction. The dwellings range in age from 20 to 45 years old. Three comparables have basements ranging in size from 594 to 1,188 square feet of building area; two comparables have central air conditioning and two comparables have a fireplace. Three comparables have garages, one of which has two garages. These comparables had improvement assessments ranging from \$43,531 to \$55,025 or from \$25.75 to \$33.59 per square foot of living area. The grid also reports these comparables sold between March and November 2006 for prices ranging from \$200,000 to \$213,000 or from \$105.63 to \$159.57 per square foot of living area including land. Lastly, the board of review reported that these four comparables had estimated market values based on their 2006 assessments ranging from \$148,803 to \$184,047 or from \$16,715 to \$57,997 below their recent sale prices as compared to the subject which had an estimated market value \$22,002 above its 2004 sale price.

In the letter and at the hearing, the assessor noted that the comparables presented by the appellant are not similar to the subject property in that it is inappropriate to compare the subject's part one-story and part two-story design to split-level properties. Furthermore, the assessor noted five of the six comparables were much older than the subject property such that, despite any remodeling over the years, the foundation of the dwelling is still much older than the subject. The assessor further noted that appellant's comparable #1, the most similar comparable in age, was a split level "with an overhang and receiving a credit for unfinished lower level (partial assessment)."

The assessor also reported the sales history for the subject property reflecting increasing values: a sale in December 2002 for \$226,000; a sale in August 2003 for \$242,000; and a sale in December 2004 for \$246,000.² The assessor further argued the assessment reduction sought by the appellant would bring the subject property below the most recent purchase price from three years ago. Based on the foregoing criticisms of the appellant's evidence, the board of review requested confirmation of the

² There was an error in the letter where the sale price was reported to be \$264,000 whereas the property record card reflects the sale price as \$246,000.

subject's assessment contending that the appellant failed to establish a lack of uniformity.

In written rebuttal, the appellant pointed out a typographical error that was made with regard to the subject's most recent purchase price. The appellant further argued that sales of nearby properties, while having sold for more than the subject, have a lower per-square foot improvement assessment than the subject, thereby showing a lack of equality and uniformity in the assessment process.

In rebuttal at hearing, the appellant testified that he viewed the interior of his comparable #1 when it was available for sale and disputed the assessor's characterization that the lower level was not finished in that property.

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 November 2004 sale price of \$246,000, which occurred just 13 months prior the January 1, 2006, assessment date at issue in this appeal. The subject's assessment reflects an estimated market value of \$268,190, which is higher than its sale price. Moreover, as presented in the data from the board of review and the testimony of the township assessor, recently sold properties are not assessed so as to reflect 33 1/3% of fair market value or certainly not an estimated fair market value greater than their recent sale prices. 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 (1st 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 \$246,000.

As set forth in the Rules of the Property Tax Appeal Board, "[t]he board of review must provide substantive, documentary evidence or legal argument sufficient to support its assessment of the subject property or some other, alternate valuation." (86 Ill. Admin. Code, Sec. 1910.63(c)). It has also been held there is no presumption of correctness accorded to an original assessment or that of a board of review (Western Illinois Power Cooperative, Inc. v. Property Tax Appeal Board, 29 Ill. App. 3d 16, 22 (1975)).

The appellant attempted to demonstrate the subject's assessment was inequitable because of the percentage increases in its assessment from 2004 to 2006 as compared to the percentage increases of nearby properties. The Property Tax Appeal Board finds this type of analysis is not an accurate measurement or a persuasive indicator to demonstrate assessment inequity by clear and convincing evidence. The Board finds rising or falling assessments from year to year on a percentage basis do not indicate whether a particular property is inequitably assessed. The assessment methodology and actual assessments together with their salient characteristics of properties must be compared and analyzed to determine whether uniformity of assessments exists. The Board finds assessors and boards of review are required by the Property Tax Code to revise and correct real property assessments, annually if necessary, that reflect fair market value, maintain uniformity of assessments, and are fair and just. This may result in many properties having increased or decreased assessments from year to year of varying amounts and percentage rates depending on prevailing market conditions and prior year's assessments.

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 both lesser and more expensive properties at a lower proportion of their fair cash value when compared to the subject which is assessed proportionately at greater than its fair cash value. This inequitable process results in the uneven distribution of the ad valorem assessment burden within the subject's 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 seven of the comparables submitted by the parties, which had varying degrees of similarity and dissimilarity, sold from August 2005 to November 2006 for prices ranging from \$200,000 to \$277,000. These same properties have 2006 total assessments ranging from \$49,601 to \$83,413. The subject property sold for \$246,000 in November 2004 and has a 2006 total

assessment of \$89,334. Even after considering adjustments and the differences in both parties' suggested comparables when compared to the subject property in terms of age, design, and features, the Board finds the subject property sold within the range of the comparables contained in this record, but does not have a total assessment within the range of the comparables.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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 28, 2009

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.