PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Gennady Lipovetsky
DOCKET NO.: 06-01118.001-R-1
PARCEL NO.: 14-32-303-017

The parties of record before the Property Tax Appeal Board are Gennady Lipovetsky, the appellant, by attorney Fred Shestopal of Emalfarb, Swan & Bain, in Highland Park, Illinois, and the Lake County Board of Review.

The subject parcel of 2.2-acres is improved with a 39-year old, one-story dwelling of masonry construction containing 3,602 square feet of living area. The subject dwelling has a concrete slab foundation, central air conditioning, two fireplaces, and an attached garage of 704 square feet of building area. There is also a 208 square foot shed, a 220 square foot brick patio, and a 108 square foot concrete patio. The property is located in Deer Park, Ela Township, Lake County, Illinois.

The appellant's appeal is based on unequal treatment in the assessment process. No dispute was raised concerning the land assessment. The appellant also reported the subject property was purchase in June 2005 for $599,000 or $166.30 per square foot of living area, including land. In support of the inequity argument, the appellant submitted a grid analysis with information on three suggested comparable properties described as one-story frame or masonry dwellings that range in age from 27 to 29 years old for consideration. In a cover letter, counsel said the comparables presented are all "split level properties, with spit [*sic*] lower and upper floor." The comparables were said to have finished basement areas ranging from 943 to 1,188 square feet of building area. Each comparable had central air conditioning, a fireplace, and a garage ranging in size from 441 to 988 square feet of building area. The comparables range in size from 2,052 to 2,666 square feet of living area and have improvement assessments ranging from $93,977 to $114,006 or from $41.85 to $47.96 per square foot of living area. For purposes of presenting comparable data, appellant's counsel added the above grade living area square footage of the comparables to their finished basement area in order to present improvement

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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:	$	52,935
IMPR.:	$	132,158
TOTAL:	$	185,093

Subject only to the State multiplier as applicable.

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assessments ranging from $30.55 to $31.98 per square foot of finished area both above and below ground. The subject's improvement assessment is $132,158 or $36.69 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to $96,134 or $26.69 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $185,093 was disclosed. In support of the subject's assessment, the board of review presented a two-page letter from Pamela J. Hoffman, the Ela Township Assessor, along with a grid analysis reiterating the appellant's comparables with corrections and a grid analysis of three comparables presented by the board of review.

In the letter, the township assessor initially questions the standing of appellant Gennady Lipovetsky to file the instant appeal contending that (1) he is not the owner of the home and (2) is not responsible for the taxes. The assessor further states in September 2006, Gennady Lipovetsky "deeded over his property rights."

In support of the subject's assessment, the board of review through the township assessor presented descriptions and assessment information on three comparable properties, one of which was the same as appellant's comparable #3. The suggested comparables consist of one-story frame or masonry dwellings that were either 28 or 38 years old. Features include unfinished basements ranging in size from 666 to 1,719 square feet of building area. Each comparable has central air conditioning, one or two fireplaces, and a garage ranging in size from 484 to 928 square feet of building area. The dwellings range in size from 2,666 to 3,438 square feet of living area and have improvement assessments ranging from $111,585 to $149,834 or from $41.85 to $44.41 per square foot of living area.

In response to the appellant's evidence, the township assessor noted the comparables presented by the appellant were classified by both the assessor and area realtors as one-story dwellings, not as split-level dwellings as asserted by appellant's attorney. Furthermore, the letter noted it is the practice of the Ela Township Assessor to assess finished basements as recreation areas, not as living area. Among the corrections to the appellant's grid analysis included that the subject has central air conditioning and two fireplaces, not one; for appellant's comparable #3 the basement area was 666 square feet of building area, not 986 square feet.

Lastly, the township assessor noted the recent sale price of the subject property and asserted the estimated market value of the subject based on its 2006 assessment was $555,334, below its recent sale price. Based on the foregoing evidence, presuming the appellant has standing to appeal, the board of review requested confirmation of the subject's assessment.

After reviewing the record 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 a reduction in the subject's assessment is not warranted.

As an initial matter regarding jurisdiction, the board of review through correspondence from the township assessor questioned the standing of appellant Gennady Lipovetsky to have filed the instant appeal. There were assertions from the township assessor that appellant was not the owner of the home or responsible for the taxes, have deeded property rights in September 2006. First, it is noted that this is an assessment appeal for a valuation date of January 1, 2006, such that presumably appellant had full legal ownership in the property on that date. Second, the board of review presented no documentation to support the factual assertions made in that no recorded deed was submitted and the subject's property record card does not reflect any transfer of ownership. Furthermore, the Notice of Findings issued by the board of review dated in February 2007 was addressed to appellant Gennady Lipovetsky, suggesting that the board of review deemed appellant to be the owner/taxpayer of record.

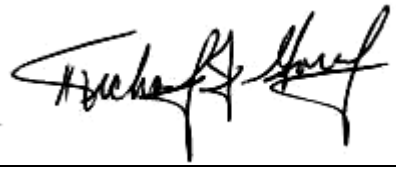
The appellant contends unequal treatment in the subject's improvement assessment as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The parties submitted a total of five comparable properties for the Board's consideration. Appellant's comparables were all one-story dwellings like the subject, but the argument of counsel to include finished basement area in the calculation of the improvement assessment per square foot of living area has not been shown to have any validity. Living area square footage includes that area above grade only; finished basement area is assessed separately as an amenity pursuant to accepted real estate valuation theory and practice. Based on differences in living area square footage, appellant's comparables #1 and #2 have been given less weight by the Board in its analysis; these two comparables were significantly smaller than the subject. The Board finds the most similar comparables on this record to the subject were appellant's comparable #3 and the board of review's comparables (of which #3 was the same as appellant's comparable #3). These three comparables submitted by the appellant and the board of review were most similar to the subject in size, design, exterior construction, location and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from $111,585 to $149,834 or from $41.85 to $44.41 per square foot of living area. The subject's improvement assessment of $132,158 or $36.69 per square foot of living area is below this range. The subject's lower

assessment is supported, among other things, by the fact that it has a concrete slab foundation as compared to the three most similar comparables on this record, even though the subject has more living area square footage than any of the comparables presented. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is equitable and a reduction in the subject's assessment is not 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



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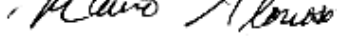

Member

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: August 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.