

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Robert E. Teberg Trust  
DOCKET NO.: 06-01434.001-R-1  
PARCEL NO.: 14-35-426-014

The parties of record before the Property Tax Appeal Board are Robert E. Teberg Trust, the appellant, by attorney John L. Cowlin of Cowlin, Naughton, Curran & Coppedge in Crystal Lake, Illinois, and the McHenry County Board of Review.

The subject property of .88 acres has been improved with a two-story frame and masonry single-family dwelling built in 1994. The property contains 3,545 square feet of living area and features central air conditioning, two fireplaces, a partial crawl-space and partial unfinished basement foundation, an attached three-car garage of 660 square feet of building area, and a 336 square foot wood deck. The property is located in Crystal Lake, Nunda Township, McHenry County, Illinois.

Appellant appeared through counsel before the Property Tax Appeal Board asserting both unequal treatment in the assessment process and overvaluation with regard to both the land<sup>1</sup> and improvement assessments of the subject property as the bases of the appeal.

There is an initial dispute between the parties concerning the size of the subject dwelling. Robert Teberg testified that the property was purchased as a 'spec' home from the builder, Mr. Riordan, in August 1994 and the builder informed Mr. Teberg that there was approximately 3,201 square feet of "heated living area" in the dwelling and an unfinished, unheated attic over the garage was not included. Subsequent to the filing of this appeal, the Nunda Township Assessor, who was present at the hearing, re-measured the subject dwelling and reduced the recorded living area square footage by 76 square feet for a total living area square footage of 3,545 square feet.

Based on the foregoing evidence, the Property Tax Appeal Board finds that the subject dwelling contains 3,545 square feet of

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<sup>1</sup> At the close of hearing, counsel withdrew the challenge to the land assessment in light of the evidence presented by both the appellant and the board of review. For purposes of a complete record, however, the evidence and the challenge to the land assessment will be addressed in this matter.

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

LAND:	\$	29,167
IMPR.:	\$	131,558
TOTAL:	\$	160,725

Subject only to the State multiplier as applicable.

living area. The hearsay testimony of Mr. Teberg regarding the purported living area square footage of the subject dwelling as related to him by the builder is insufficient to establish the subject dwelling's living area for purposes of the Property Tax Appeal Board. Additionally, the presentation in documentary rebuttal evidence of a letter from the builder was not acceptable rebuttal evidence pursuant to the Rules of the Property Tax Appeal Board (86 Ill. Admin. Code, Sec. 1910.66) nor does it cure the hearsay nature of Mr. Teberg's testimony. The Board finds that had appellant desired to utilize the letter from the builder to establish the size of the dwelling, first, the letter should have been submitted by the appellant as part of the original appeal petition filing in accordance with Section 1910.30 and, second, the builder should have been present at hearing to testify to the measurements taken in arriving at the purported living area square footage the builder claims.<sup>2</sup>

In support of both the equity and overvaluation arguments, the appellant presented a grid analysis of three suggested comparable properties located in the same subdivision as the subject property. The properties were described as two-story frame and masonry dwellings which were built between 1991 and 1995. The dwellings ranged in size from 3,188 to 3,328 square feet of living area and featured central air conditioning, a fireplace, an unfinished basement, and a garage ranging in size from 680 to 726 square feet of building area. One comparable also had a deck.

In testimony, Mr. Teberg indicated that his comparable #2 had a finished basement; the appellant's grid analysis, however, notes "0" finished basement area for this property.

As to the lack of uniformity in assessment, the appellant presented data that these three comparables had improvement assessments ranging from \$122,492 to \$125,132 or from \$36.81 to \$38.79 per square foot of living area. The appellant reported the subject as having a dwelling size of 3,201 square feet of living area and an improvement assessment of \$134,115 or \$41.90 per square foot of living area. As to the subject's land assessment, appellant reported the subject property of .88 acres had a land assessment of \$29,167 whereas the comparable lots of .72 to 1.16 acres had land assessments of \$29,167 each.

As to the overvaluation evidence, appellant's grid provided dates of sale for all three comparables presented ranging from May 1998 to June 2004 and prices ranging from \$355,500 to \$542,000 or from \$111.51 to \$162.86 per square foot of living area, including land. The subject's total assessment of \$163,282 before correction would reflect an estimated market value of \$490,189

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<sup>2</sup> The Board notes that it is not uncommon for builders to measure "rooms" in a dwelling and not include spaces such as closets and/or hallways/stairways. For assessment purposes, however, as testified to by the board of review living area square footage is determined uniformly for all properties from exterior measurements.

utilizing the 2006 three-year median level of assessments for McHenry County of 33.31%.

In testimony, Mr. Teberg noted the comparable properties presented by the board of review "back up" to a retention area (park-like setting) whereas the subject "backs up" to a primary access road for the subdivision known as Valley View Road.

Based on the foregoing evidence, appellant requested a reduction in the improvement assessment to \$109,333 or \$30.84 per square foot of living area utilizing the corrected living area square footage of the subject property. Appellant also requested a reduction in the land assessment to \$24,000.

On cross-examination, Mr. Teberg discussed the recent sale of appellant's comparable #1 for \$445,000 in approximately April 2008. On re-direct, Mr. Teberg testified this property had been on the market for about two years.

The board of review presented its "Board of Review Notes on Appeal" wherein its final assessment for the subject property was disclosed. The board of review also included a Certificate of Error regarding the subject property reflecting a 2006 total assessed value of \$160,725 based on a land assessment of \$29,167 and a changed improvement assessment of \$131,558 which was issued as a result of the re-measurement of the dwelling finding a living area square footage of 3,545 square feet.

In support of this corrected 2006 assessment, the board of review presented a grid analysis prepared by the township assessor reiterating appellant's comparables #1 and #2 and relying on the presentation of three comparable properties numbered #3, #4 and #5 (shaded on the grid); board of review comparable #3 was also appellant's comparable #3. Thus, the two new comparables presented by the board of review were described as two-story frame and masonry dwellings built in 1993 and 1994. The dwellings contain 3,496 and 3,675 square feet of living area, respectively, and feature central air conditioning, a fireplace, a partial basement, one of which includes 1,572 square feet of finished area, and a three-car garage of either 698 or 788 square feet of building area.

In response to the uniformity argument, the board of review's grid noted that these two comparables had improvement assessments of \$147,243 and \$165,803 or \$40.07 and \$47.43 per square foot of living area. These two properties also had lot sizes of .65 and .71 acres, respectively, with land assessments of \$29,167 each.

In response to the overvaluation argument, the board of review reported that these two comparables sold in June 2005 and January 2006 for \$575,000 and \$583,000 or \$156.46 and \$166.76 per square foot of living area, including land.

Based on its analysis of these properties, the board of review requested confirmation of the subject's assessment as reflected in the Certificate of Error dated May 21, 2007.

In rebuttal filed through counsel, appellant submitted a letter from the builder of the subject property reflecting 3,200 square feet of living area for the subject. Also submitted were property record card printouts for appellant's comparables #1 and #2 and the copies of the real estate tax bills of the subject and the appellant's comparables #1 and #2 along with a cover letter from counsel making arguments about the negative impact of the location of the subject property in comparison to the comparables presented by appellant.

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 Board further finds a reduction in the subject's assessment beyond that reflected in the Certificate of Error issued as to the subject property's 2006 assessment is not warranted.

Initially, as to the purported documentary rebuttal evidence submitted by the appellant, this data does not comply with the Rules of the Property Tax Appeal Board regarding the content of rebuttal evidence to explain, repel, counteract or disprove facts presented by the board of review. (86 Ill. Admin. Code, Sec. 1910.66). As such, this purported "rebuttal" data has not been considered by the Property Tax Appeal Board as substantive evidence in this matter. The letter from the builder was previously addressed as hearsay and not timely submitted with the appeal to substantiate the appellant's claim regarding the living area square footage of the dwelling. The Board finds property record card data submitted as rebuttal on appellant's comparables #1 and #2 are repetitive of the original submission by the appellant and not responsive to the data submitted by the board of review as required by Section 1910.66(a). Similarly, the copies of the tax bills are both not responsive to the evidence submitted by the board of review and irrelevant to the determination of the correct assessment of the subject property.

Addressing the merits of the claim, first 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.

Both parties submitted a total of five comparables for the Board's consideration all of which were similar to the subject in location, age, exterior construction and design. The Board has given less weight in its analysis to board of review comparable #5 due to its substantial finished basement area. However, the remaining four comparables presented by both parties were similar

to the subject in most respects. 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 \$122,497 to \$165,803 or from \$36.81 to \$47.43 per square foot of living area. The subject's corrected improvement assessment of \$131,558 based on 3,545 square feet of living area results in an improvement assessment of \$37.11 per square foot of living area. This corrected improvement assessment is within the range of the most similar comparables on this record. 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.

Likewise, as to the land assessment, the record reflects that the comparable lots range in size from .65 to 1.16 acre with the subject lot being .88 acre. Each lot, regardless of size, has been uniformly assessed at \$29,167. Since the subject lot has been treated uniformly with similarly situated lots in the subject's subdivision, the appellant has not established a disparity of assessment valuations by clear and convincing evidence.

The appellant also contended the assessment of the subject property was excessive and not reflective of its market value. 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 (3<sup>rd</sup> Dist. 2002). The Board finds the evidence in the record fails to support a reduction in either the subject's improvement or land assessment on the basis of overvaluation.

As to the land assessment argument, the testimony presented on behalf of appellant suggested a reduction in market value was warranted due to location "backing up" to a major subdivision roadway. However, to the extent that appellant was making this argument, there was no market value evidence submitted reflecting a diminution in value of the subject lot due to this location near this major roadway. The Board finds that appellant failed to provide any market data demonstrating the subject's assessment was not reflective of its market value considering its location "backing up" to this major subdivision roadway. In the absence of such evidence, the Property Tax Appeal Board finds that the appellant has failed to establish overvaluation of the land by a preponderance of the evidence.

As to their respective positions on the overvaluation claim, the parties submitted a total of five sales comparables for the Board's consideration. All of the comparables are within the subject's subdivision and of similar age and design. Board of review's sales comparable #5 has been afforded less weight in the Board's analysis due to its finished basement area. Appellant's sales comparable #1 with a sale date of May 1998 has also been

afforded less weight in the Board's analysis. The assessment date at issue is January 1, 2006. The Property Tax Appeal Board finds that a sale of property in mid-1998 is simply too distant in time from January 1, 2006 to provide a valid indicator of market value in 2006.

In summary, the three most similar and current comparable sales on this record occurred from June 2003 to June 2006 and range in sale prices from \$415,000 to \$583,000 or from \$126.83 to \$166.76 per square foot of living area, including land. The subject's corrected 2006 assessment of \$160,725 results in an estimated fair market value of \$482,513 or \$136.11 per square foot of living area,<sup>3</sup> including land, utilizing the three-year median level of assessments for McHenry County of 33.31%. The Board finds the subject's estimated market value as reflected by its assessment is within the range of the most similar sales comparables in the record and a reduction in the subject's assessment is not warranted.

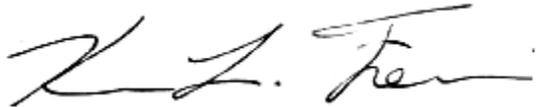
In conclusion, on the basis of the assessment equity information submitted by the parties, the Board finds that the evidence has not demonstrated that the subject property is assessed in excess of what equity would dictate. The Board further finds that appellant has failed to demonstrate overvaluation by a preponderance of the evidence. Therefore, the Property Tax Appeal Board finds that the subject property's assessment as established by the board of review in its Certificate of Error is correct and no further change or reduction is warranted.

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<sup>3</sup> Based upon 3,545 square feet of living area.

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.

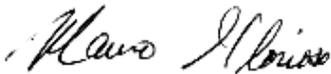
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Chairman



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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: May 27, 2009



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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.