Final Administrative Decision of the
State of Illinois
PROPERTY TAX APPEAL BOARD

APPELLANT: Larry & Corrine LeRette
DOCKET NO.: 06-01544.001-R-1
PARCEL NO.: 05-18-250-009

The parties of record before the Property Tax Appeal Board are Larry & Corrine LeRette, the appellants, and the Kendall County Board of Review by Assistant State's Attorney Brian J. Labardi.

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

LAND:	$ 46,500
IMPR.:	$133,000
TOTAL:	$179,500

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 34,342 square foot parcel improved with a one and one-half story frame (cedar) and masonry (thin-cut artificial stone) exterior constructed single-family dwelling built in 2005. The dwelling contains approximately 3,300 square feet of living area[1] and features central air conditioning, a fireplace, a full unfinished basement of 2,600 square feet of building area, and an attached three-car garage of 975 square feet of building area.[2] The subject property is located in Yorkville, Kendall Township, Kendall County.

The appellants appeared before the Property Tax Appeal Board contending unequal treatment in the assessment process as the basis of the appeal with regard to both the land and improvement

[1] The property record card submitted by the board of review depicts the dwelling as 4,009 square feet of living area. The appellants' testimony under oath regarding the subject dwelling size of 3,300 square feet was not challenged by the board of review.
[2] The board of review reported from the property record card that the subject garage contained 1,007 square feet of building area.

assessments of the subject property. In this regard, appellants contend that the subject's entire subdivision has been overassessed as compared to neighboring subdivisions/properties, one of which the appellants present in this appeal as a suggested comparable.

Through both their written evidence and at hearing, appellants noted their subdivision, known as Brighton Oak Estates, consisting of 20 residential lots, has not been fully developed nor maintained as promised by the developer such as the construction of a gazebo, benches along the ponds, split rail fencing along a major arterial road, and planting of over one-hundred new trees. In fact, appellants have engaged the services of legal counsel to pursue various matters related to the developer's failures to maintain the subdivision and/or the promises made. As of the filing of the instant appeal, only three dwellings, including the subject, were occupied in the subdivision and there were also two unoccupied model homes and one 'spec' home. Appellants testified the remaining lots are vacant and the development has simply not been cared for such as decorative amenities have not been maintained so that three man-made ponds are green and walking paths are overgrown with weeds; in summary, the appellants testified that the development looks abandoned. Based on these foregoing issues and in comparison to neighboring properties, appellants contend the subject property does not have the value as assigned by the assessor as to the land or the improvement.

In support of the inequity argument, the appellants submitted a grid analysis with assessment data and descriptions of four suggested comparable properties for both their land and improvement assessment claims. Besides the grid, appellants supplied a map depicting the subject and comparables along with color photographs of the subject and three of the comparables. Comparable #4 in the neighboring subdivision of Maple Grove, which 'backs up' to the rear lot line of the subject property while comparables #1 through #3 were located within the subject's subdivision.

During hearing, appellants initially testified the subject property has the highest total assessment as compared to the four comparables presented despite the fact that the subject dwelling has the smallest living area as presented in the appellants' grid analysis. The comparables were described as one one-story and three two-story dwellings[3] of masonry or frame and masonry exterior construction built in either 2000 or 2005. Each comparable has a basement, three of which were described as walkout style with comparable 4 having finished basement area. Each comparable also features central air conditioning and from one to three fireplaces. The dwellings were said to range in size from 3,776 to 7,688 square feet of living area. Other than

[3] Although appellants described comparable 1 as a three-story dwelling with a walkout basement, the photographs supplied reflect a two-story dwelling with a walkout basement.

the 3,776 square foot dwelling, it was evident that the size data was drawn from building permits, not from property record cards and the dwelling sizes appear to include, as part of the above grade living area, basement areas for comparables #1 through #3. The appellants reported that the comparables had improvement assessments ranging from $75,894 to $135,625 or from $16.33 to $23.04 per square foot of living area including basements in most instances. The subject has an improvement assessment of $137,200 or $41.58 per square foot of living area. On the basis of the data provided, the appellants requested an improvement assessment for the subject of $133,000 or $40.30 per square foot of living area. The comparables have total assessments ranging from $108,394 to $172,015 or from $22.37 to $28.71 per square foot of living area, land included. The subject has a total assessment of $183,700 or $55.67 per square foot of living area, land included.

As to the land inequity argument, the comparables were described as parcels ranging in size from 29,915 to approximately 45,000 square feet of land area. These properties had land assessments ranging from $6,896 to $46,500. The subject parcel had a land assessment of $46,500. The evidence also revealed that comparable 3 with the $6,896 land assessment was a lot still owned by the developer and probably receiving a developer's exemption. On the basis of this data, appellants requested a reduction in the subject's land assessment to $30,000.

At the hearing, appellants testified that with both the land and building, the appellants have expended about $540,000 on the subject property.

On cross-examination, the appellants noted that they have a view of two of the green ponds from the subject property and the ponds are located on the access route to the dwelling. As to the land assessment inequity claim, appellants acknowledged that neighboring comparable #1 has a similar land area to the subject and an identical land assessment.

Upon questioning by the Hearing Officer, the appellants noted that their comparable #3 with a parcel of 32,634 square feet of land area and a land assessment of $6,896 was a model home.

The board of review submitted "Board of Review Notes on Appeal" wherein the subject's assessment of $183,700 was presented. In support of the assessment, a letter from the Kendall County Board of review was submitted along with copies of property record cards and a brief grid analysis.

At hearing, the board first called Mike Hardecopf, Kendall Township Assessor, who had held that position for more than 33 years as its witness. As to appellants' comparable #3, the assessor was fairly certain this comparable was receiving a developer's exemption (35 ILCS 200/10-30). He further testified land assessments are derived from sales of vacant lots and that land is assessed on a site basis with parcels of .75 to 1.25-

acres in the subject's area being similarly assessed. As to the land assessment of appellants' comparable #4, the assessor testified the property is in an older subdivision which explains its differing land assessment from the subject.

The next witness called by the board of review was David E. Thompson, Supervisor of Assessments, who testified that to the best of his knowledge the property record cards submitted by the board of review were accurate. He did not provide testimony indicating how the subject dwelling's size was calculated.

In the grid of five comparables as prepared by the board of review, board of review comparable #1 was appellants' comparable #3 with a substantial difference in stated living area; board of review comparable #3 was appellants' comparable #1 with a large variance in living area; and board of review comparable #4 was appellants' comparable #2 with a significant difference in stated living area. In the board's data, no separate land and improvement assessments were presented; only an improvement assessment per square foot of living area was provided. No land area square footage was presented or available on the attached property record cards. Also the board of review's data lacked detail in that it only set forth the living area square footage, age, whether the property had a basement, fireplace(s), and central air conditioning. At the bottom of the grid, the board of review indicated that all of the five comparables were located within the subject's subdivision; board of review comparable #4 was a one-story dwelling and the remainder are "all more than one-story."

Upon further examining the attached property record cards, the comparables can be somewhat more fully described as one, one-story dwelling, three, two-story dwellings, and one, part one-story and part two-story dwelling of frame, masonry or frame and masonry exterior construction. The dwellings ranged in age from new to 2 years old. Features included full basements ranging in size from 1,532 to 2,800 square feet of building area, central air conditioning, one or two fireplaces, and three-car garages ranging in size from 662 to 802 square feet of building area. The dwellings ranged in size from 2,800 to 5,046 square feet of living area. As set forth in the chart, these properties reportedly had improvement assessments ranging from $0 to $35.06 per square foot of living area. The board of review reported the subject dwelling contains 4,009 square feet of living area and thus, presented the subject's improvement assessment as $34.22 per square foot of living area, which falls within the range of the comparables presented by the board of review. As a result of this analysis, the board of review requested confirmation of the subject's assessment.

In rebuttal previously submitted in this matter, appellants asserted the board of review was setting forth inaccurate information. At hearing, appellants testified that it cost three times more to build appellants' comparable #1 as compared to the subject; yet the subject's 2006 assessed value was greater than

that neighboring property. Based on such a comparison, the appellants contend the subject's assessment lacks uniformity.

After hearing the testimony and considering 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 improvement assessment is warranted.

The initial issue in this matter raised by the documentation concerns the living area square footage of the subject property. The Property Tax Appeal Board finds the testimony of the appellant/homeowners who built the subject dwelling to be the most credible evidence of the living area square footage of the subject property as approximately 3,300 square feet. The board of review failed to supply any testimony or other substantive evidence to support its living area square footage calculation. Thus, based on this record, the Property Tax Appeal Board fails to find the square footage calculation on the property record card for the subject dwelling to be credible and has relied upon the appellants' sworn testimony as to the size of the dwelling.

The appellants contend 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 appellants have met this burden.

The size discrepancies in living area square footage as presented by the appellants and the board of review for the comparables must be considered first. Unlike the subject property where the appellants had personal knowledge of the subject's living area, the appellants did not present any substantive evidence to support the living area square footages for their comparables as reported in their grid analysis. In fact, in the course of their testimony, it became evident that the appellants included walkout basement areas with above-grade living areas in arriving at their reported living area figures. In light of the lack of supportive data from the appellants and the inappropriate inclusion of basement area in the living area calculation by the appellants, the Property Tax Appeal Board finds the best evidence on the record of the living area square footages of the comparables presented is found in the property record cards presented by the board of review. Thus, the Board finds the best evidence of the comparable dwellings' living areas range from 2,800 to 5,046 square feet of living area.

After considering the redundant properties presented by both parties, a total of five comparable properties were suggested by the appellants and the board of review. The Property Tax Appeal Board has given less weight to appellants' comparable #4 due to its location in another subdivision. The Board has also given no

weight to board of review comparable #2 since the board of review reported that it had a $0 improvement assessment for 2006, making it a useless comparable in this proceeding on alleged lack of uniformity. In summary, the Property Tax Appeal Board finds the three comparables located in the subject's subdivision and, which were submitted by both parties, to have been the most similar to the subject in location, size, style, exterior construction, features and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis; the most similar comparable in size is appellants' comparable #2/board of review comparable #4. Based on the size determinations made previously and the improvement assessments reported by the appellants, these three most similar comparables had improvement assessments that ranged from $92,300 to $135,625 or from $24.87 to $33.36 per square foot of living area. The subject's improvement assessment of $137,200 or $41.58 per square foot of living area which is above the range of these 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 improvement assessment is not equitable and a reduction in the subject's improvement assessment is warranted on grounds of lack of uniformity.

As to the land inequity argument, the Property Tax Appeal Board has land assessment information and sizes only from the appellants in this proceeding. As noted above, appellants' comparables #1 through #3 are the most similar to the subject parcel in location and have been given the greatest weight by the Board in this land inequity argument. The evidence established that appellants' comparable #3 had a lesser land assessment due to having a developer's exemption, therefore, the Board finds this is an inappropriate comparable property for purposes of an equity argument. The subject parcel has a land assessment of $46,500 which is identical to the land assessments of appellants' comparables #1 and #2. The Property Tax Appeal Board finds that the evidence is that land in the subject's subdivision is assessed on a site basis meaning some variances in sizes do not result in varying land assessments. The Property Tax Appeal Board finds the appellants failed to establish lack of uniformity on this record with regard to their land assessment.

In this appeal, although the appellants provided testimony and argument that the subdivision has not been developed or maintained as promised by the developer, the appellants provided no evidence of market value associated with the subject property other than indicating that the appellants have invested $540,000 in the land and building construction. The appellants did not provide any evidence, such as an appraisal, establishing an alternate estimate of market value of the subject property as of January 1, 2006, considering the failures in development and/or maintenance of the subdivision's surroundings. Thus, the appellants did not provide any estimate of market value that called into question the correctness of the subject's assessment. However, after a reduction of the improvement assessment as

discussed above due to lack of uniformity, the estimated market value of the subject property with the reduced assessment is approximately $538,500, which is less than the appellants' reported cost of the land and construction of the building combined.

In summary, the Property Tax Appeal Board finds that the appellants have proven by clear and convincing evidence that the subject improvement is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's improvement assessment as established by the board of review is incorrect and a reduction is warranted. No reduction is warranted in the subject's land assessment.

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: September 28, 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.