

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Brian Harbour
DOCKET NO.: 06-01552.001-R-1
PARCEL NO.: 05-2-126-005

The parties of record before the Property Tax Appeal Board are Brian Harbour, the appellant, and the Kendall County Board of Review.

The subject property consists of a two-story dwelling of brick and frame exterior construction that was built in 2005. The dwelling contains 4,415 square feet of living area. Features include central air conditioning, two fireplaces, a full unfinished walkout basement, and a 662 square foot three car attached garage.

The appellant appeared before the Property Tax Appeal Board claiming the subject property was inequitably assessed and overvalued. In support of these claims, the appellant submitted photographs and an analysis of three suggested comparables. The comparables are located in a neighboring subdivision that shares adjacent roads with the subject's subdivision and are within one mile from the subject. However, comparable 3 is located along the subject's street. The appellant argued the comparables are located in the same geographic area and neighborhood.

The comparables are described as two-story dwellings of brick and frame exterior construction that were built in 2002 and 2005 situated on one acre lots like the subject. Features include unfinished walkout basements, central air conditioning, at least one fireplace, and two or three car attached garages. The comparables have improvement assessments ranging from \$124,865 to \$127,718 or from \$29.55 to \$30.83 per square foot of living area. The subject property has an improvement assessment of \$142,035 or \$32.17 per square foot of living area. Comparables 2 and 3 sold in 2005 for prices of \$512,578 and \$620,000 or \$123.72 and \$150.05 per square foot of living area including land.

The appellant also contends the subject dwelling contains 3,840 square feet of living area, but submitted no evidence in support of this argument. Based on this evidence, the appellant requested a reduction in the subject's assessment.

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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:	\$	34,262
IMPR.:	\$	135,098
TOTAL:	\$	169,360

Subject only to the State multiplier as applicable.

Under cross examination, the appellant acknowledged the comparables he selected are located in a different subdivision and township than the subject, but are located less than one mile from the subject. He argued the comparables are virtually in the same subdivision as the subject, but have different subdivision names. The appellant argued it is unfair that similar properties located in close geographic proximity, but simply located in a neighboring township are assessed less than subject. The appellant also testified he purchased the subject property from a general contractor for a cost of \$415,000 in August 2005, but acknowledged the construction cost from the contractor may not reflect fair market value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$176,297 was disclosed. The subject's assessment reflects an estimated market value of \$517,911 or \$117.31 per square foot of living area including land using Kendall County's 2006 three-year median level of assessments of 34.04%.

In support of the subject's assessment, the board of review submitted a letter in response to the appeal, a diagram of the subject dwelling, and an analysis of the subject and three suggested comparables along with dwelling diagrams for the suggested comparables. The comparables are located along the subject street in close proximity within the subject's subdivision. In addition, the board of review submitted dwelling diagrams and a "Sales Listing Report" for six additional comparable sales that are located in the subject's subdivision or "within a reasonable distance and considered to be in the same market" as the subject. However, little descriptive data or comparative analysis was provided for the six additional comparables.

The first three comparables consist of two, part two and part one-story dwellings and a part one and part two-story dwelling. The dwellings are of brick and frame exterior construction that were built in 2005. The comparables have basements, central air conditioning, one fireplace, and attached garages ranging in size from 781 to 1,191 square feet. None of the comparables have walkout basements like the subject. The dwellings range in size from 4,152 to 4,180 square feet of living area and have improvement assessments ranging from \$128,210 to \$149,680 or from \$30.67 to \$36.04 per square foot of living area. The subject property has an improvement assessment of \$142,035 or \$32.17 per square foot of living area.

The comparables also sold from April 2004 to March 2006 for prices ranging from \$259,669 to \$628,742 or from \$62.53 to \$151.43 per square foot of living area including land. However, construction was not completed for comparable 2, which sold for \$259,669 or \$62.53 per square foot of living area including land.

The six additional properties from the "Sales Listing Report" had little descriptive information for comparative analysis. The limited data indicates the suggested comparables consist of a one-story; a part one and part-two story; and four, two-story style dwellings of an unknown age and exterior construction. Three comparables are located on the subject's street, but the proximity of the other three properties was not disclosed. The diagrams submitted indicate the suggested comparables range in size from 3,019 to 4,140 square feet of living area with basements and attached garages ranging from 649 to 897 square feet. No other features were disclosed. They sold from June 2005 to October 2006 for prices ranging from \$410,000 to \$517,446 or from \$121.45 to \$151.04 per square foot of living area including land.

The board of review called Kendal Township Assessor, Michael Hardercopf, who was qualified as an expert witness and provided testimony in connection with the appeal. The assessor testified all the comparables are located within Kendall Township. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

Under cross examination, the assessor testified he only chose comparables located in Kendall Township because that is his assessment jurisdiction. The assessor agreed comparables 1 and 3 are assessed for less than their 2005 and 2006 sale prices. The assessor agreed the subject property's assessment reflects an estimated market value of \$528,891, considerably more than its \$415,000 purchase price.

In rebuttal, the appellant argued board of review comparables 1 and 2 are not a full two-story property and do not have a walkout basements, dissimilar to the subject. He also argued comparable 2 is not occupied. The appellant also claimed board of review comparable 3 is the most similar property when compared to the subject due to its predominantly two-story design.

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 first argued the subject property was inequitably assessed. More specifically, the appellant argued it is inequitable that properties located in Oswego Township are assessed proportionally less than similar properties in Kendall Township. 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

evidence submitted, the Board finds the appellant has overcome this burden and a reduction is warranted.

Both parties submitted assessment information for six suggested comparables for the Board's consideration. The three comparables submitted by the appellant are located in a neighboring subdivision, but a different township than the subject. However, the comparables are located within one mile from the subject, with one comparable sharing the same street name as the subject. The board of review submitted three comparables to demonstrate the subject dwelling was uniformly assessed. The board of review's comparables are located along the subject street within the subject's subdivision and township. The board of review argued the appellant's comparables are not located in the same township as the subject and therefore should not be considered. The Property Tax Appeal Board accords this aspect of the board of review's argument little merit. The board of review failed to submit any evidence indicating similar real property within the same geographical area, but situated in different townships, carry dissimilar values. In contrast, the Property Tax Appeal Board finds the market evidence contained in both parties evidence support the appellant's contention that all the comparables are located in the same geographic competing market area.

The Property Tax Appeal Board finds this record contains four sales of properties with varying degrees of similarity to one another that have similar market values, although they are located in different townships. Two credible sales submitted by the appellant are located in close proximity to the subject, but are located in a neighboring subdivision and township. They sold in 2005 for prices of \$512,578 and \$620,000 or \$123.72 and \$150.05 per square foot of living area including land. By comparison, two credible sales submitted by the board of review that are located in close proximity within the subject's subdivision and township. They sold in 2005 and 2006 for prices of \$517,446 and \$628,742 or \$123.79 and \$151.43 per square foot of living area including land. Based on this analysis, the Property Tax Appeal Board finds the board of review's contention that the appellant's comparables should not be considered due to their location in a different township is without merit.

The parties submitted a total of six assessment comparables for consideration. The Board gave less weight to comparable 1 submitted by the appellant due to its slightly older age than the subject. The Board also gave less weight to comparables 1 and 2 submitted by the board of review. These properties are part one story and part two story dwellings, dissimilar the subject's two story design. (See dwelling diagrams submitted by the board of review). The Property Tax Appeal Board finds the remaining three comparables to be most similar when compared to the subject in age, size, design, amenities and location. They have improvement assessments ranging from \$127,313 to \$128,210 or from \$30.67 to \$30.83 per square foot of living area. The subject property has

an improvement assessment of \$142,035 or \$32.17 per square foot of living area, which falls above the range established by the most similar assessment comparables contained in this record. After considering adjustments to the comparables for any differences when compared to the subject, the Board finds the subject's improvement assessment is excessive and a reduction is warranted.

The appellant also argued 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). The Board finds the appellant has not overcome this burden. After reviewing the market data evidence offered by both parties and considering the assessment reduction granted based on the principals uniformity, the Property Tax Appeal Board finds no further reduction in the subject's assessed valuation is supported.

In conclusion, the Board finds the appellant has demonstrated a lack of uniformity in the subject's improvement assessment by clear and convincing 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.



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: August 29, 2008



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.