



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

APPELLANT: Donald Biciste
DOCKET NO.: 06-01731.001-R-1
PARCEL NO.: 14-26-301-008

The parties of record before the Property Tax Appeal Board are Donald Biciste, the appellant; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$55,868
IMPR: \$105,825
TOTAL: \$161,693

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 66,036 square foot parcel improved with 34 year-old, 1.5-story style frame dwelling that contains 2,574 square feet of living area. The subject has a pond across the rear of the property. The subject is located in the Village of Kildeer, Ela Township, Lake County.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation of the subject's land as the basis of the appeal. The appellant's evidence noted the subject property had been the subject of an appeal to the Property Tax Appeal Board the prior year under Docket No. 05-01754.001-R-1. In its decision regarding that appeal, the Board found no change in the subject's assessment was warranted based on the evidence and testimony in the record.

At the hearing on the instant appeal, the appellant acknowledged he had submitted no evidence to support a reduction in the subject's improvement assessment and argued land inequity only. Regarding the land inequity issue, the appellant submitted limited information on two land sales that occurred in March 2003. The comparables were reported to be located in the "same

village" and contain 42,899 or 43,836 square feet of land area. The appellant claimed the comparables sold for \$1,000 or approximately \$0.23 per square foot of land area. The appellant did not submit land assessment data on these properties.

The appellant submitted additional data in support of his contention that the subject's land assessment did not reflect its market value. One of the items submitted is a plat of survey of the subject prepared on March 29, 2007 by a licensed surveyor. The appellant also claimed the subject is located in a Special Flood Hazard Area as designated by the Federal Emergency Management Agency (FEMA) which requires flood insurance and which forbids additional sub-grade construction within the area. The appellant further claimed new construction or the replacement of the subject dwelling are restricted acts under the Lake County Watershed Development Ordinance. He also claimed the township assessor over-assessed over 300 properties with "lake bottom" acreage. The appellant contends incorrect assessments of such properties containing lake bottom land, like the subject, have borne an inordinate portion of the tax burden. However, the appellant failed to submit an appraisal or any other credible market evidence to demonstrate the subject's market value had been adversely affected by its presence in a flood plain or its partial composition of lake bottom land. Based on this evidence, the appellant requested a reduction in the subject's land assessment.

During the hearing, the Hearing Officer asked the appellant what he thought was the correct land assessment for the subject. The appellant had no answer.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of \$165,582 was disclosed. In support of the subject's assessment the board of review submitted a letter prepared by the township assessor, supported by seven exhibits. The assessor's letter claimed the sale of the two land comparables submitted by the appellant "[were] unqualified sale[s]. The purchaser was an adjacent property owner and was approached by the seller to buy the property. The comparables used were assessed as lake bottom properties."

The board of review called Ela Township Deputy Assessor John Barrington as a witness. Barrington testified he is a licensed appraiser and a Certified Illinois Assessing Official. Initially, the witness testified the appellant's plat of survey had not been made available to the assessor's office in previous years, since it was not prepared until March 2007. Based on this survey, the assessor revised the subject's land assessment to indicate it contains 66,036 square feet of land area, rather than 67,955 square feet, as the assessor had previously estimated. The appellant's survey indicated 17,641 square feet of the subject parcel are lake bottom (in the pond) and are valued at \$0.01 per square foot. The first 50,000 square feet of land are valued at \$3.25 per square foot, with land areas over 50,000

square feet valued at \$0.33 per square foot. Based on this evidence, the board of review requested the subject's assessment be confirmed.

Barrington then explained how the assessor determined a revised assessment for the subject. After subtracting the 17,641 square feet of lake bottom, the subject contains 48,396 square feet, which are valued at \$3.25 per square foot for a market value of \$157,287. The 17,641 square feet of lake bottom, valued at \$0.01 per square foot, generate a market value of \$176. When \$157,287 and \$176 are added together to equal a total market value of \$157,463, and after application of the 2006 Ela Township Equalization factor of 1.0645, the subject's final land market value was \$167,619. When this market value is multiplied by .3333, the resulting land assessment proposed for the subject is \$55,868. The deputy assessor then proposed the subject's land assessment be reduced to this figure.

Barrington then explained that in 2007, a quadrennial assessment year for Ela Township, the land valuation standard in the subject's neighborhood was changed to \$2.50 for the first 70,000 square feet of land area and \$0.25 per square foot for areas over 70,000 square feet. The same \$0.01 per square foot was used for lake bottom land. Based on this formula and application of the 2007 Ela Township equalization factor of 1.0173, the subject's 2007 land assessment was \$42,709. In the interest of uniformity, the assessor's office applied this same land assessment standard for all land in the subject's neighborhood.

Regarding the appellant's contention that the subject's location in a FEMA flood plain should result in a further reduced assessment, Barrington testified the Ela Township assessor does not adjust for land located in a flood plain, because there is no market value data to support a reduction for this reason. The witness then testified regarding board of review Exhibit 3, which details three comparables located near the subject that were submitted by the board of review in support of the subject's land assessment. One of the comparables is located across the street from the subject. The comparables range in size from 76,189 to 196,493 square feet of land area and have land market values ranging from \$182,181 to \$224,443 or from \$0.38 to \$0.80 per square foot. The subject's land market value is \$0.88 per square foot. The witness then testified the comparables' have land assessments below the subject because they have significant areas of excess land, with comparable one being three times the size of the subject. Notwithstanding this point, the witness testified the comparables were assessed using the same land valuation engine used to value the subject's land. The witness then referred to Exhibit 5 in the board of review's evidence, which detailed two more comparables located in a subdivision north of the subject that were built in 2000. These comparables are also in the FEMA flood plain and were valued and assessed at a higher level than the subject based on recent sales. However, no adjustment was made for the flood plain location. The higher land valuation engine for these two comparables was used because

they sold for much higher prices, and were put in a separate assessment neighborhood for this reason.

Regarding the appellant's two comparables, Barrington testified these properties sold in 2003, were purchased by an owner of adjacent property and the majority of the land is under water, unlike the subject parcel. The witness opined these parcels are dissimilar to the subject.

In response, the appellant testified he was in "reasonable agreement" with the revised 2006 land assessment of the subject, if the math described by the deputy assessor as used in the board of review's documentation is used.

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 that a reduction in the subject property's assessment is warranted. The appellant argued unequal treatment in the assessment process as the basis of the appeal. 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 assessment data, the Board finds the appellant has overcome this burden.

The appellant submitted two land sales and the board of review submitted three land assessment comparables, along with sales information on two other comparables. The Board finds Barrington's testimony disclosed the appellant's two comparables sold in 2003, were purchased by an owner of adjacent property and the majority of the land in these parcels is under water, unlike the subject parcel. The witness opined these parcels are dissimilar to the subject. The Board agrees and gave little weight to the appellant's comparables. The board of review's comparables have assessments that are lower than the subject because they are significantly larger than the subject. However, the Board finds the same methodology was used consistently to value and assess land in the subject's neighborhood.

Regarding the flood plain issue, the Board further finds the appellant submitted no credible evidence from the market to demonstrate that land located in a flood plain is adversely affected by such a location. Indeed, the board of review's witness testified no adjustment for location in a flood plain was made to the subject or any other lot for this reason because "there is no market value data to support a reduction for this reason."

However, the appellant did submit a March 2007 plat of survey for the subject parcel that was reviewed by the board of review prior to the hearing. The board of review proposed a revised land

assessment for the subject of \$55,868, based on the survey and the land valuation engine used in the subject's neighborhood. The board of review's witness provided detailed testimony regarding this method, which included a nominal valuation for lake bottom land like the subject. The Board finds a consistent and uniform standard was employed throughout the subject's neighborhood.

In summary, the Property Tax Appeal Board finds that, based on the revised land area of the subject parcel as detailed in the appellant's survey, and using the land valuation and assessment engine described by the deputy assessor, the board of review's revised 2006 land assessment for the subject of \$55,868 is appropriate.

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.



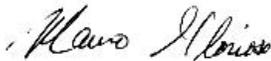
Chairman



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.