



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

APPELLANT: Wendy Gregoria
DOCKET NO.: 06-01876.001-R-1
PARCEL NO.: 07-35-252-003

The parties of record before the Property Tax Appeal Board are Wendy Gregoria, the appellant, and the McHenry County Board of Review.

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: \$ 33,477
IMPR: \$167,245
TOTAL: \$200,722

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 2.01-acres is improved with a two-story dwelling of frame construction containing 3,400 square feet of living area. The dwelling was constructed in 2005. Features of the home include a full, unfinished basement, central air conditioning, two fireplaces, a screen porch, deck, and an attached garage of 984 square feet of building area. The property is located in Woodstock, Hartland Township, McHenry County.

The appellant appeared before the Property Tax Appeal Board contending both overvaluation and unequal treatment in the assessment process with regard to both the land and improvement assessments of the subject property. Besides submitting a grid analysis of suggested comparable properties, the appellant submitted a two-page letter detailing a concern that assessments in the subject area for newly constructed homes versus older dwellings do not properly reflect the respective fair cash values of the properties.

In support of these arguments, the appellant submitted a grid analysis detailing four improved comparable properties which range in size from 2.02 to 5.02-acres of land area. These comparables had land assessments ranging from \$22,965 to \$37,069 or from \$7,384 to \$11,369 per acre whereas the subject had a land assessment of \$33,477 or \$16,655 per acre. Based on this evidence, the appellant requested a land assessment reduction to \$20,086 or \$9,993 per acre.

As to the improvement inequity and overvaluation arguments, of the four properties presented, three comparables have been improved with two-story dwellings and one comparable has been improved with a one and one-half story dwelling. As set forth in the grid, each comparable is described as being of frame exterior construction and ranging in age from 9 to 20 years old. Features include basements, central air conditioning, a fireplace, and a garage ranging in size from 590 to 1,115 square feet of building area. Three comparables also have a deck. The comparable dwellings range in size from 1,960 to 5,100 square feet of living area. The comparables have improvement assessments ranging from \$79,669 to \$119,810 or from \$25.48 to \$47.58 per square foot of living area. The subject's improvement assessment is \$167,245 or \$49.19 per square foot of living area. Appellant also reported these four properties sold between June 2003 and August 2006 for prices ranging from \$323,000 to \$545,000 or from \$106.86 to \$197.45 per square foot of living area including land. The appellant also reported the subject property was purchased in December 2005 for \$619,600 or \$182.24 per square foot of living area including land.

Furthermore, appellant analyzed the four comparable sales as compared to their 2006 assessments and reported a sales ratio range of .278 to .309 whereas the subject had a sales ratio of .324.¹ Based on this analysis, the appellant asserted the subject, as new construction, bears a greater level of the taxation burden than older existing homes. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$150,527 or \$44.27 per square foot of living area. The total reduction in the subject's assessment to \$170,613 would reflect an estimated market value of \$512,198 or \$150.65 per square foot of living area including land utilizing the 2006 three year median level of assessments for McHenry County of 33.31%.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$200,722 was disclosed. The subject's assessment reflects an estimated market value of \$602,588 or \$177.23 per square foot of living area including land based upon the 2006 three-year median level of assessments for McHenry County of 33.31%.

¹ Due to a calculation error in the sales ratios of comparables #1 and #2, the actual range of sales ratios was .287 to .327 with the subject falling within the range at .324.

In response to the appeal and in support of the subject's assessment, the board of review presented two letters from Marjorie Emricson, the Hartland and Dunham Township Assessor, along with a sheet of vacant land sales data for the subject's subdivision for years 2004, 2005 and 2006 and a chart of comparable sales data from three different subdivisions, including the subject's sale. The board of review failed to address the appellant's equity argument when it submitted only comparable sales data.

In one letter, the township assessor wrote that the subject property when appealed at the local McHenry County Board of Review level involved both the instant parcel and an additional vacant parcel known as 07-35-252-002 which was assessed for \$35,542 and had been purchased in May 2006 for \$200,000. The assessor further reported the combined purchase prices and assessments for these parcels results in a sales ratio for the two adjoining parcels of 28.83%. The township assessor concludes that the Property Tax Appeal Board should "look at the property as both parcels."²

In the second two-page letter, the township assessor reported that subject property is located in a new subdivision known as "Rose Farm Estates." The township assessor reported land is valued uniformly in the subject's subdivision where the median lot size is 2.01-acres with a median sales price of \$115,000. The assessor further reported that the adjacent vacant lot also owned by the appellant consists of 2.57-acres with an assessment of \$35,542. In a chart, the assessor reported eleven "arm's-length" sales of vacant land in Rose Farm Estates of parcels ranging in size from 2 to 3.57-acres and which occurred between June 2004 and July 2006 for prices ranging from \$105,000 to \$257,000 or from \$33,613 to \$128,500 per acre of land.

At hearing, the board of review called Marjorie Emricson for testimony with regard to her assessment practices. With regard, for instance, to the subject property the assessment was based on the size of the dwelling, application of quality factors, and a computer program known as PAMS which is based on the Marshall & Swift cost manual. The assessor further testified the four comparables presented by the appellant are from nearby Marawood Subdivision. In one of her letters, the assessor reported Marawood Subdivision has a median sales price from 2003 through 2005 of \$398,500 as compared to the Glengarry subdivision median sales price of \$393,000 and the subject Rose Farm Estates median sales price of \$628,237.80 for the same time period. The board of review representative asserted that while Marawood and Rose Farm Estates are neighboring subdivisions, those subdivisions are

² Pursuant to the Property Tax Code, the jurisdiction of the Property Tax Appeal Board is strictly limited to a "determination of the correct assessment of property which is the subject of an appeal." (35 ILCS 200/16-180). Therefore, contrary to the suggestion by the township assessor, the Property Tax Appeal Board has no authority to consider the instant parcel's assessment with that of an adjoining parcel which has not been appealed to the Property Tax Appeal Board.

distinctly different as reflected in the sales prices per square foot of properties in those subdivisions; Marawood had a median sales price of approximately \$107 per square foot of living area including land whereas Rose Farm Estates had a median sales price of approximately \$177 per square foot of living area including land. The representative asserted that dwellings in Marawood are much older than properties in the subject's subdivision meaning the appellant's suggested comparables are not truly similar to the subject property.

In response to the overvaluation claim, the board of review submitted a chart of eleven arm's-length sales, including the sale of the subject property, which occurred in three subdivisions, including Rose Farm Estates. The chart identifies the parcel identification number, subdivision, dwelling size, sale date and sales price, and sale price per square foot of living area including land. No further data in terms of land size, age, exterior construction, foundation, or features of these properties was presented. The dwellings were said to range in size from 1,961 to 5,127 square feet of living area. These properties sold between June 2003 and October 2006 for prices ranging from \$323,000 to \$790,900 or from \$106.30 to \$210.18 per square foot of living area including land. The subject sold in December 2005 for \$619,600 or \$171.63 per square foot of living area including land, within the range of the comparable sales. This chart further reported the median sales prices of the properties as follows: Marawood Estates median size of 3,400 square feet sold for \$107.80 per square foot; Glengarry Subdivision median size of 2,828 square feet sold for \$121.64 per square foot; and Rose Farm Estates median size of 3,577 square feet sold for \$177.86 per square foot. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal at the hearing, appellant pointed out an aerial parcel map included in the appellant's evidence. She contended that the roads between Marawood and Rose Farm Estates are interconnecting and, other than consisting of "older" homes, there is nothing different or special between properties in Marawood and Rose Farm Estates; she further acknowledged that logically the homes in Rose Farm Estates are more expensive because they are newer. Appellant also argued that the interior features of the older homes may not be known to the assessor because of the age of those properties as compared to the subject with its listing sheet detailing the features of the subject.

In a written rebuttal, the appellant addressed the assessor's request to include consideration of the vacant lot adjoining the subject property in this appeal. Appellant reported the lot was purchased several months after the subject property was purchased and "we paid a premium since it adjoined our lot." Appellant argued that adding the vacant parcel to the subject, the sales ratio is artificially reduced. Since the assessment of the vacant parcel was not part of this appeal, appellant requests that the parcel not be considered part of the instant appeal.

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.

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.

Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. Appellant in this appeal sought to present those market value considerations with sales prices of these comparable properties with sales which occurred between June 2003 and August 2006 for the instant valuation date of January 1, 2006.

The supreme court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test. [citation.] Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the Supreme Court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is

assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21.

Except in counties with more than 200,000 inhabitants which classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has held that a contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

The Board finds the comparables submitted by the appellant sold for prices ranging from \$323,000 to \$545,000 and have improvement assessments ranging from \$23.49 to \$47.58 per square foot of living area. The subject property sold in December 2005 or from 4 to 30 months from the sales of the comparables for \$619,600, or from \$74,600 to \$296,600 more than the appellants' four suggested comparables. The subject property has an improvement assessment of \$49.19 per square foot of living area, slightly higher than appellants' suggested assessment comparables. The subject's higher per square foot assessment is well justified given its significantly higher sales price as compared to the comparable properties. In summary, the Board finds the subject's higher per square foot improvement assessment is well justified giving consideration to the credible market evidence contained in this record and, in fact, the subject property appears to be under-assessed as of January 1, 2006 in relationship to its December 2005 purchase price.

As to the appellant's sales ratio data the Property Tax Appeal Board finds, as cited in Peacock v. Illinois Property Tax Appeal Board, 339 Ill.App.3d 1060 (4th Dist. 2003), that such a limited study of handpicked comparables without other evidence of similarity to the subject is not sufficient and, is in fact, fatally flawed. This is not a random sampling of like properties that could be viewed as representative of the county's assessments as a whole. At most, the appellant's data shows that instances exist in which particular properties are undervalued, some more so than others. The law does not require "absolute equality" in taxation. Schreiber v. County of Cook, 388 Ill. 297 (1944) ("Perfect equality and uniformity of taxation as regards individuals or corporations or different classes of property subject to taxation can hardly be visualized. Absolute equality is impracticable in taxation and is not required by the equal protection clause of the constitution. Inequalities that result occasionally and incidentally in the application of a system that

is not arbitrary in its classification, and not applied in a hostile and discriminatory manner, are not sufficient to defeat the tax"); Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 20 Ill. 2d 769 (1960) (the constitutional uniformity requirement is satisfied if the taxing body achieves a reasonable degree of uniformity).

Furthermore, the appellant failed to utilize the proper method in calculating the assessment to value ratio for the comparables. The Board finds the proper method to calculate assessment to value ratios for ad valorem taxation purposes is by using a property's prior year's assessment divided by its arm's-length sale price. The appellant herein calculated value ratios for ad valorem taxation purposes ranging from .278 to .309 reportedly by "dividing the assessed value for the year following the sale by the sale price." (See page 2 of appellant's letter). As noted previously, the appellant made some calculation errors and the reported sales ratios actually range from .287 to .327 with the subject under this methodology having a sales ratio of .324, well within the range of the comparables presented by the appellant. The Board also finds the appellant's analysis and interpretation of the sales ratio data is in error and is not supported by the limited results. The Property Tax Appeal Board finds that it can give little credence to the appellant's argument based on the sales ratio study.

The United States Supreme Court has considered the requirements of equal treatment in the assessment process with respect to the Equal Protection Clause of the federal constitution. In Allegheny Pittsburgh Coal v. Webster County, 109 S.Ct. 633 (1989), the Court held that the "Clause tolerates occasional errors of state law or mistakes in judgment when valuing property for tax purposes [citation omitted]", and "does not require immediate general adjustment on the basis of the latest market developments. In each case, the constitutional requirement is the seasonable attainment of a rough equality in tax treatment of similarly situated property owners." The courts look to the county as a whole in order to determine whether the property at issue is being assessed in accordance with the constitutional guaranty of equality and uniformity of taxation.

In this same context, the Board finds the appellant's study was not performed on a countywide basis, the properties selected were not random, and the appellant did not properly edit the data. Peacock v. Property Tax Appeal Board, 339 Ill.App.3d 1060, (4th Dist. 2003). In this matter, the Property Tax Appeal Board also notes the comparables were not truly similar to the subject property in design, size, age and/or features. Furthermore, the Board finds the courts have held that in determining whether to use a township or county sales ratio, considerations of practicality dictate the use of the county ratio. People ex rel. Kohorst v. Gulf, Mobile & Ohio R.R. Co., 22 Ill.2d 104, 174 (1961). The courts look to the county as a whole in order to determine whether the property at issue is being assessed in accordance with the constitutional guaranty of equity and

uniformity of taxation. Additionally, the courts have held that "even if the studies show a disparity in the levels of assessment of residential property within the same township, we cannot find that the evidence shows that a township level of assessment, rather than a countywide level, is the proper one. In re App. of County Treasurer (Twin Manors), 175 Ill.App.3d 562, (1st Dist. 1988). Thus, a review of case law indicates that the courts look at the "assessment level for the county as a whole" rather than selective properties in a given area, as the appellants did in this instant appeal.

The Property Tax Appeal Board further finds the three-year median level of assessments for McHenry County in 2006 as determined by the Illinois Department of Revenue was 33.31% or 99.93% in market value terms. Therefore, the appellant's study cannot be said to demonstrate by clear and convincing evidence that the subject property was assessed disproportionately higher than other properties. The subject property sold in December 2005 for \$619,600; the next highest sales price in the comparables presented by appellant was \$545,000. The Board also recognizes that the subject property has both the highest sales price and the highest assessed value among the comparables appellant presented; similarly, the comparables presented by appellant each individually when analyzed in order, the highest assessed value reflects the highest sales price and so on for each of the four comparables. In other words, based purely on sales price and ignoring all other questions of comparability of the properties, the assessments reflect some level of proportionality with the recent sales prices of the properties.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960). Although the comparables presented by the appellant disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: October 28, 2009

Allen Castrovillari

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.