



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

APPELLANT: Richard & Judy Johnson
DOCKET NO.: 06-01942.001-R-1
PARCEL NO.: 02-28-477-003

The parties of record before the Property Tax Appeal Board are Richard & Judy Johnson, 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 no change 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: \$23,000
IMPR.: \$69,606
TOTAL: \$92,606**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story brick and frame dwelling that is 15 years old and contains 2,400 square feet of living area. Amenities include a full unfinished basement, central air conditioning, a fireplace, a deck, and a 624 square foot two-car attached garage. The property is located in Yorkville, Bristol Township, Kendall County.

The appellant Judy Johnson appeared before the Property Tax Appeal Board on behalf of the appellants claiming a lack of uniformity regarding the subject's land and improvement assessment. More specifically, the appellant argued the subject's assessment increase of over 30% from the prior year is inequitable considering the percentage increases of other properties' assessments in neighboring subdivisions, which ranged from 14% to 17.9% from the prior year. Appellants further requested that the testimony of a witness in Docket No. 2006-01943.01-R-1 be considered in the instant appeal with regard to issues surrounding the calculation of living area square footage of dwellings in the subject's subdivision. Upon questioning by the Hearing Officer, appellant indicated that she had no substantive evidence that the square footage of the subject

property was incorrect as provided by the assessor and/or as presented by the appellants in this appeal.

Due to a scheduling issue with the witness, appellants requested that the testimony of Mary Warpinski to be heard in the next scheduled matter, Docket No. 2006-01943.001-R-1, be considered in the instant appeal. Based upon the objection of the board of review's counsel pending hearing the testimony and being able to engage in cross-examination of the witness, ruling was reserved on the appellant's request pending the presentation of the witness in the next matter.

At the conclusion of the direct and cross examination of Mary Warpinski at the hearing on Docket No. 2006-01943.001-R-1, counsel for the board of review continued to object to the witness' testimony being considered in this matter on grounds that the witness did not have expertise to offer "opinion" testimony. The Property Tax Appeal Board overrules the objection posed by the board of review and finds that the witness was simply offering testimony from her personal knowledge as to her experience with the disputes concerning the square footage of her dwelling located on the subject street.

Mary Warpinski testified in Docket No. 2006-01943.001-R-1 that she owned property on the subject street in 2006. The witness further testified that with the use of a laser gun in 2006 to recalculate living area square footage of her dwelling, the assessor's records changed from 2,572 square feet which had been on record for 17 years to 2,381 square feet. Warpinski believed the new square footage figure was inaccurate because the covenants required two-story dwellings in the subdivision have a minimum of 2,400 square feet. After meeting with the assessor and reviewing blueprints of Warpinski's dwelling, it was discovered a rear laundry room had been left off and the new living area square footage was found to be 2,426 square feet. Warpinski did not further contest that figure with the assessor, but she further testified that thereafter she consulted her builder who assured her that the dwelling had 2,610 square feet.

In support of the inequity claim, the appellant completed Section V of the appeal petition describing eight suggested comparables. Their proximity in relation to the subject was said to be from one block to "a few blocks." Further testimony elicited during the hearing indicates these comparables are located in a different subdivision. The appellant also submitted property record cards and photographs of the suggested comparables. The comparables consist of two-story brick and frame dwellings that were built from 1987 to 2005 and range in size from 2,330 to 3,370 square feet of living area. Seven comparables have full or partial unfinished basements while one comparable was reported to have a crawl space foundation. Other features include central air conditioning, one fireplace, and two or three car garages. The comparables have improvement assessments ranging from \$54,885 to \$83,333 or from \$22.01 to \$27.35 per square foot of living area. The subject property had an improvement assessment of

\$69,606 or \$29.00 per square foot of living area. Appellants requested an improvement assessment reduction to \$63,613 which would be reflective of a 17.9% increase in the improvement assessment from 2005 to 2006.

To demonstrate the subject's land assessment was not uniform, the appellants provided three additional land comparables. Again, their proximity in relation to the subject was summarized as "behind our house," "a few blocks" and "Bristol Township." They have land assessments of \$20,000 whereas the subject property has a land assessment of \$23,000. Appellants requested a land assessment reduction to \$20,000.

The appellants also submitted four packets of assessment information to further bolster the claim the subject property was inequitably assessed. Appellant Judy Johnson testified she prepared the evidence along with neighbors working as a team, all of whom were appealing the assessments of their residential properties. Packet 1 consists of an analysis of 12 residential properties located on the subject's street. After appealing to the Kendall County Board of Review, these properties had improvement assessments ranging from \$63,736 to \$93,919, which are from 13.92% to 34.67% higher than their 2005 improvement assessments. The analysis further depicts that four other properties that are located in an adjacent subdivision had their improvement assessments changed from the 2005 assessment year by -4.74% to +17.9%. In summary, appellants contend the increase for the subject property was more than "the township average of 17.9%." There was also a nine-page listing identifying properties within several blocks of the subject according to an included map with land and improvement assessment data and calculations of percentage increases in those land and improvement assessments from 2005 to 2006. In summary, appellants reported the average improvement assessment increased by 17.9% and most of the parcels increased to a \$20,000 land assessment.

Packet 2 had similar types of analyses regarding the percentage increases and/or decreases in assessments of various properties in relation to the subject and other properties located along the subject's street and issues regarding living area square footage as reported on property record cards of properties other than the subject.

Packet 3 focused on a new subdivision adjacent to the subject's street with greater common amenities and newer, larger dwellings; based on three properties, appellants contend these properties either had no increase in the 2006 improvement assessment or an increase of 12.96%, less than the increased assessment for the subject. Based on a two-page spreadsheet, appellants note land values in this subdivision increased, but improvement assessments did not change resulting in average assessment increases of 4% to 5%. In summary, as to this neighboring subdivision, appellants contend the subject's neighborhood was not treated in the same manner.

Packet 4 reiterates the inequity argument regarding the subject's land assessment and appellant further expounds that \$20,000 land assessments in 2006 for parcels in the neighboring newer subdivision are inappropriate when in 2005 those parcels sold for prices ranging from \$89,000 to \$98,000. Appellants further noted the subject's subdivision does not have the common area amenities of the neighboring subdivision. Based on the evidence, the appellants requested a reduction in the subject property's land assessment to \$20,000.

Upon cross-examination, appellant Judy Johnson reiterated that she did not know the exact square footage of the subject dwelling, but given the covenants of the subdivision, this two-story dwelling should be at least 2,400 square feet. She agreed she did not use comparables located along the subject's street and/or subdivision, but many of the properties were within a block.

On redirect, Mrs. Johnson clarified that a primary concern in the subject's improvement assessment per square foot is that the subject's assessment of \$29.00 per square foot of living area is virtually identical to that of dwellings which are only one or two years old whereas the subject dwelling is 15 years old. In this regard, she testified that she and her spouse have recently replaced a leaking roof and had other home maintenance issues which the newer dwellings in the neighborhood will not have for quite a few years.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$92,606 was disclosed. As an initial matter, the board of review requested that the Property Tax Appeal Board take judicial notice of its prior decisions in Docket Nos. 2006-01551.001-R-1, 2006-01556.001-R-1, and 2006-01894.001-R-1 which concerned other properties in the subject's subdivision with similar, if not identical, comparable information presented by the parties in those appeals. In presenting its case, the board of review called Raymond J. Waclaw, the Bristol Township Assessor, as a witness, who has held that position since 1993.

The assessor acknowledged properties within the subject's subdivision received an assessment increases due to a general reassessment in Bristol Township for 2006. Waclaw testified that in 2006 approximately 8,000 properties were reassessed in a mass appraisal re-valuation based upon an Illinois Department of Revenue sales ratio study advising what was necessary to achieve an assessment level of 33 1/3% of fair cash value. In performing the re-valuation, the jurisdiction was broken down into neighborhoods and within the neighborhoods assessment adjustments were made anywhere from 0% to 60%. These adjustments came from sales of properties for 2005, 2004 and 2003 utilizing a mass appraisal system of grouping properties.

As to the appellants' suggested comparables, Waclaw testified that none were within the subject's subdivision. With regard to the appellants' evidence, the assessor testified the subject property is in a subdivision with custom built homes as compared to the surrounding subdivisions which are not custom built. Also, the subject subdivision has substantially larger lots unlike the nearby subdivisions appellants suggested as comparable properties; with one subdivision the properties have septic and well as opposed to the subject which has water and sewer service. Waclaw also noted properties were re-measured using a new laser gun system in 2006.

In a hand-written grid analysis, the board of review presented three comparable properties located on the same street as the subject property consisting of two-story dwellings ranging in age from 15 to 18 years old. The comparables range in size from 2,294 to 2,426 square feet of living area. Features include basements, a fireplace, and a garage. The comparables had improvement assessments ranging from \$66,681 to \$70,714 or from \$29.06 to \$29.14 per square foot of living area. The subject has an improvement assessment of \$69,606 or \$29.00 per square foot of living area.

As to the land assessment inequity argument, the board of review reported irregular sizes for two of the three properties. In the grid, the land assessment was reported to be \$23,000 for each property, the same as the land assessment for the subject parcel. With respect to land assessments in the subdivision, the testimony and evidence revealed all lots along the subject's street, which have city water and sewer service, have land assessments of \$23,000, except one property which has a land assessment of \$33,000. The assessor acknowledged lots located in the subject subdivision vary in size, but the lots are uniformly assessed.

In further support of the subject's assessment, the board of review submitted an assessment analysis of 30 suggested comparables located in close proximity and along the subject's street, which included the three individual properties identified above. These thirty properties consist of four, one and one-half story style; five, one-story style; and 21, two-story style dwellings of frame or brick and frame exterior construction that are from 1 to 21 years old. Features include full or partial basements, central air conditioning, one fireplace, and garages ranging in size from 460 to 1,804 square feet. The dwellings range in size from 1,855 to 4,256 square feet of living area and have improvement assessments ranging from \$54,385 to \$126,732 or from \$28.59 to \$35.49 per square foot of living area. The subject property has an improvement assessment of \$69,606 or \$29.00 per square foot of living area.

The board of review also submitted evidence indicating a sale of a comparable property that is located along the subject's street and was previously owned by appellants' witness Mary Warpinski. This property is a 17 year old, two-story brick and frame

dwelling that contains 2,426 square feet of living area. Features include a basement, fireplace, and a 782 square foot garage. It sold in September 2007 for \$340,000 or \$140.15 per square foot of living area including land. This property has a total assessment of \$93,714, which reflects an estimated market value of \$281,170. The assessor testified that even with its significant 2006 assessment increase of 26%, this comparable property is under-assessed in relation to its sale price. Based on the foregoing evidence, the board of review requested confirmation of the subject property's assessment.

In written rebuttal and as pointed out at hearing, appellants disputed some of the data in the grid of thirty comparables presented by the board of review. For instance and as outlined in Rebuttal Packet 1, the last two properties on the board's grid, neither of which have been assessed for any masonry, appellants contend and submitted photographs depicting brick and stone facing, respectively, on the dwellings. Furthermore, the data on the board's grid indicates twelve dwellings to be all brick based on the assessment data whereas in actuality there are only three all brick dwellings on the street. Appellants also contend that pursuant to the covenants of the subdivision, every two-story dwelling should have at least 2,400 square feet of living area, but there are several two-story properties on the board's grid which have square footage figures of less than 2,400 square feet causing appellant to question the accuracy of the board's presentation of data. Appellants further pointed out in the rebuttal data presented that living area square footage on property record cards does not match the living area square footage reported by the board of review in their grid with regard to five properties, including the subject.

In Rebuttal Packet 2, appellants noted two of the three comparables identified by the board of review in their handwritten grid analysis are properties which are also on appeal before the Property Tax Appeal Board regarding their 2006 assessments. Moreover, comparable #1 was extensively remodeled in preparation for sale and the September 2007 sale price of that property is not relevant to the valuation date of January 1, 2006. Appellants also argued that the subject property should not be compared to one-story dwellings as listed on the board's grid of thirty comparables.

In Rebuttal Packet 3, appellants outlined the percentage increases in improvement assessments for a number of properties in various subdivisions within Bristol Township from 2005 to 2006 and the changes in land assessments for those properties for the same time period. For instance, appellants report in Heartland subdivision properties had assessment increases ranging from 0% to 57%.

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 no reduction in the subject property's assessment is warranted.

The appellants' argument was unequal treatment in the assessment process or a lack of uniformity in the subject's assessment. 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 appellants have not overcome this burden.

The appellants argued the subject's assessment increase of over 30% from the prior assessment year is not equitable considering the assessment increases of other properties located in a neighboring subdivision on a percentage basis, which ranged from 14% to 17.9% from the prior year. The Property Tax Appeal Board gave little merit to this argument. The Board finds this type of argument is not a persuasive indicator demonstrating the subject property was inequitably assessed by clear and convincing evidence. The Board finds rising or falling assessments from assessment year to assessment year on a percentage basis do not indicate whether a particular property is inequitably assessed. The actual assessment amounts together with their salient characteristics must be analyzed and compared with other similar properties to make a determination on whether uniformity of assessments exists. The Board finds assessors and boards of review are required by the Property Tax Code to revise and correct real property assessments, annually if necessary, that reflect fair market value, maintain uniformity of assessments, and are fair and just. This may result in many properties having increased or decreased assessments from year to year of varying amounts and percentage rates depending on prevailing market conditions and their prior year's assessments.

Appellants further argued that utilizing other contested property assessments on the subject's street to validate the assessment of the subject property was inappropriate. The Property Tax Appeal Board notes that the Illinois appellate court has likewise held that:

. . . the PTAB used the very assessment being appealed from to set the high end of the range. It is for this very reason that the subject properties fell within the range of comparable properties established by the PTAB. Therefore, the PTAB essentially held that the assessments imposed on the subject properties were self-validating.

Pace Realty Group v. Property Tax Appeal Board, 306 Ill. App. 3d 718, 728 (2nd Dist. 1999). In this matter, appellants take the contention one step further and argue that the two lowest

assessed properties on the board's grid should actually have higher assessments if they were properly assessed for having partial masonry exterior construction and the highest assessed two-story dwelling should have a reduced assessment for its brick facing which was inappropriately doubled as compared to all other properties on the street. Even taking all of these assertions into consideration, the Board finds and the evidence still reveals a very small range of variation in the improvement assessment per square foot of living area among the two-story dwellings on the subject's street as will be described below and the subject property's improvement assessment falls at the low end of that tight range.

As to disputes about the recorded square footages of properties other than the subject, the appellants have shown that over time various figures have been recorded. Other than arguably as to the Warpinski property, the Property Tax Appeal Board finds the appellants have not established what the correct square footage of those properties should be. Thus, the appellants have merely attempted to throw doubt upon the measurements presented by the board of review in response to the appeal. Appellants have not, however, contested the recorded living area square footage of the subject property. The jurisdiction of the Property Tax Appeal Board is limited to determining the correct assessment of the property on appeal (35 ILCS 200/16-180).

The Property Tax Appeal Board finds the parties submitted assessment information for 38 suggested comparables. The Board gave less weight to the comparables submitted by the appellants due to their location in a different subdivision when compared to the subject and are not located as close in proximity to the subject as the board of review comparables, which are located on the subject's street. The Property Tax Appeal Board also gave less weight to 14 comparables submitted by the board of review. These properties are of a dissimilar design when compared to the subject and/or are dissimilar in size and age when compared to the subject.

The Property Tax Appeal Board finds the remaining 16 comparables submitted by the Board of review to be most representative of the subject in location, age, size, design and features. These brick and frame two-story dwellings are between 13 and 21 years old; range in size from 2,056 to 2,662 square feet of living area; and have features similar to the subject. These comparables have improvement assessments ranging from \$60,158 to \$78,578 or from \$28.59 (which according to appellants should be higher for brick exterior construction) to \$30.50 (which according to appellants should be lower since this property was overcharged for brick exterior construction) per square foot of living area. The subject property has an improvement assessment of \$69,606 or \$29.00 per square foot of living area. The Board finds the subject's improvement assessment falls well within the range established by the most similar comparables contained in this record even assuming slight upward and downward adjustments of the range of the comparables. After considering adjustments to

the most similar comparables for differences when compared to the subject, the Board finds the subject's improvement assessment is supported and no reduction is warranted.

With respect to the subject's land assessment, parties submitted land assessment information for 33 suggested comparables. Again, the Board gave less weight to the comparables submitted by the appellants due to their location in a different subdivision when compared to the subject and are not located as close in proximity to the subject as the board of review's comparables, which are located on the subject's street. The Board further finds the credible testimony and evidence revealed all lots along the subject's street have land assessments of \$23,000, except one property which has a land assessment of \$33,000. Although lots differ in size, the assessor testified lots are uniformly assessed. Based on this evidence, the Board finds the subject lot is uniformly assessed at \$23,000 and no reduction in the subject's land assessment is warranted.

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 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 disclosed that properties located in similar geographic areas 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.

Based on this analysis, the Property Tax Appeal Board finds the appellants have not demonstrated a lack of uniformity in the subject's assessment by clear and convincing evidence. Therefore, the Board finds 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.



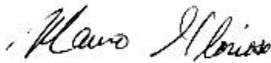
Chairman



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.