



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

APPELLANT: Daniel & Carol Pickert
DOCKET NO.: 06-01943.001-R-1
PARCEL NO.: 02-28-453-019

The parties of record before the Property Tax Appeal Board are Daniel & Carol Pickert, 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.: \$69,641
TOTAL: \$92,641**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property has been improved with a two-story brick and frame dwelling that is 18 years old and contains 2,394 square feet of living area. Amenities include a full unfinished basement of 1,240 square feet of building area, central air conditioning, a fireplace, and a 736 square foot attached three-car garage. The property is located in Yorkville, Bristol Township, Kendall County.

The appellant Carol Pickert appeared before the Property Tax Appeal Board on behalf of the appellants claiming a lack of uniformity regarding the subject's land and improvement assessments. As to the instant appeal, 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 on average from 14% to 17.9% from the prior year.

In support of the inequity claim, the appellant completed Section V of the appeal petition describing eleven suggested comparables which were said to be located from one block to 2-miles from the subject property.

Based on appellant's testimony, comparables #1 through #8 in the Residential Appeal form grid analysis are the improvement assessment comparables which have been submitted for consideration and these properties were said to be within four blocks of the subject. The comparables were described as two-story frame or frame and masonry dwellings that ranged in age from 4 to 20 years old. Seven comparables have full or partial basements; one has a crawl-space foundation. The comparables feature central air conditioning, a fireplace, and a two or three-car garage. The dwellings range in size from 2,330 to 3,370 square feet of living area. 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 \$69,641 or \$29.08 per square foot of living area. Based on the foregoing evidence, the appellant requested a reduction in the improvement assessment to \$62,018 or \$25.90 per square foot of living area.

To demonstrate the subject's land assessment was not uniform, the appellants provided three additional land comparables identified as comparables #9, #10 and #11. The comparables were located from "behind" the subject to 2-miles from the subject. In Packet #4, appellants noted the following: #9 was on the riverfront; #10 was next to a golf course; and #11 is adjacent to the subject parcel, but twice as big with a lower land assessment than the subject. These three land comparables ranged in size from 34,741 to 109,401 square feet of land area. Each property had a land assessment of \$20,000, whereas the subject property had a land assessment of \$23,000.

Appellants' first witness was Mary Warpinski who owned property on the subject street in 2006. The witness testified that with the use of a laser gun in 2006 to re-calculate 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 contest the measurement further with the assessor, but also testified that thereafter she consulted her builder who assured her that the dwelling had 2,610 square feet.

The appellants also submitted four packets of assessment information to further bolster the claim the subject property was inequitably assessed. Appellant Carol Pickert testified she prepared this evidence along with neighbors who worked as a team and 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 appellants further expound 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.

Under cross-examination, appellant Carol Pickert testified she has never measured the exterior of the subject dwelling and she has no evidence that the recorded square footage of the subject dwelling is not correct, nor is she disputing the dwelling's square footage. Mrs. Pickert also acknowledged that she did not use comparables located in the subject's subdivision; her explanation for this was that none of the properties in her subdivision were properly assessed on a square foot basis and there were numerous questions about the accuracy of the square footage determinations of the dwellings in the subdivision.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$92,641 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. The board of review called Raymond J. Waclaw, the Bristol Township Assessor, as a witness. Waclaw has been the Bristol Township Assessor since 1993.

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%. In the mass appraisal system, the assessor grouped the properties by design with adjustments for various amenities such as garage size. Waclaw also noted properties were re-measured using a new laser gun system and calculations were loaded into a new computer system within which properties were grouped by design and other amenities.

As to the appellants' suggested comparables, Waclaw testified that none were within the subject's subdivision. With regard to the appellant's evidence, the assessor testified the subject property is in a subdivision with custom built homes with larger lots and averaging 15 to 16 years old as compared to the surrounding subdivisions which, except for one, are not custom built. The lots were assessed using sales data for 2005, 2004 and 2003. Thereafter, the lots were grouped by size and assessed on a site basis for the various size ranges; parcels in the subject subdivision average 17,000 to 18,000 square feet of land area and have sewer and water.

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 12 to 17 years old. The comparables range in size from 2,238 to 2,426 square feet of living area. Features include basements, a fireplace, and a garage. The comparables had improvement assessments ranging from \$65,442 to \$70,714 or \$29.14 and \$29.24 per square foot of living area. The subject has an improvement assessment of \$69,641 or \$29.09 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. They 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, 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 \$54,386 to \$126,732 or from \$28.59 to \$35.49 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 appellant's witness Mary Warpinski. This property is a 17 year old, two-story brick and frame dwelling that contains 2,426 square feet of living. 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 assessment increase of 26%, this comparable property is under-assessed in relation to its sale price. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

On cross-examination, the assessor was asked whether appellants' comparable #1 was not in fact a custom built home, but the assessor did not have data before him to know whether it was or was not a custom built home. Appellant next questioned the square footage recorded for board of review comparable #2 in the hand-written grid analysis in light of documentation included in appellants' rebuttal materials; Waclaw noted any dwelling sizes were derived from the laser gun and/or meetings with homeowners reviewing blueprint data. Waclaw trained the assessor's staff in the use of the laser gun.

During cross-examination, the assessor testified he assessed the subject property at \$30 per square foot of living area for two-story dwellings using a model in the mass appraisal system based on five sales of properties in the subdivision from 2005, 2004 and 2003. The assessor further testified the mass appraisal system has been utilized throughout Bristol Township based on neighborhoods.

On cross-examination, Waclaw also explained that land assessments of \$20,000 and \$25,000 per parcel in a nearby subdivision differed because it was a different subdivision than the subject property which had a land assessment of \$23,000. As to Heartland subdivision, Waclaw testified the lots were significantly smaller than parcels in the subject's subdivision and land assessments were derived from sales from 2005, 2004 and 2003. Waclaw noted that his original assessment of lots in the subject's subdivision was \$25,000, but the Kendall County Board of Review reduced the land assessments in the subject's subdivision to \$23,000.

Appellant questioned Waclaw about her land comparable #9 on the riverfront being assessed less than the subject parcel. Waclaw testified part of this comparable parcel is controlled by the Department of Natural Resources, does not have city water or sewer, and based on sales in that area the comparable parcel was less valuable than the subject parcel. Waclaw on questioning also noted appellants' land comparable #11 had septic and well.

At hearing, appellant Carol Pickert reviewed the written rebuttal data submitted and concluded that given the numerous errors and discrepancies in property details, living area square footages, and consideration of the age of the dwellings, among other things, the manner in which the subject's subdivision was assessed was not fair and equitable.

In written rebuttal, 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 appellants 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.

Appellant Carol Pickert called Greg Brown as a witness. Brown built his home at 805 Teri Lane and noted that the blueprints he utilized indicated living area square footage for the dwelling of 2,490 square feet. Brown no longer lives in the property. Appellant pointed out that the assessor's records indicate Brown's former dwelling consists of 2,381 square feet of living area.

The board of review objected to Brown's testimony because it was not presented in appellants' case-in-chief and because the testimony does not rebut any testimony presented by the board of review. The Property Tax Appeal Board overrules the objection in that the living area square footage of 805 Teri Lane was presented by the board of review among the 30 property spreadsheet and therefore the presentation was rebutting evidence presented by the board of review.

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. Furthermore, appellants argued that a 1% discount for age was inappropriate where the subject which is 18 years old has a market value of only approximately \$1,200 less than a 1 year old dwelling.

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 a reduction in the subject property's improvement 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.

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 \$69,641 or \$29.09 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.



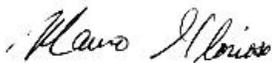
Chairman



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.