FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Carlo & Sharon Capobianco
DOCKET NO.: 06-02064.001-R-1
PARCEL NO.: 03-21-154-006

The parties of record before the Property Tax Appeal Board are Carlo & Sharon Capobianco, the appellants, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$ 25,621
IMPR.:	$ 77,140
TOTAL:	$102,761

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 10,160 square foot parcel which has been improved with a two-story single-family dwelling of frame and masonry exterior construction constructed in 1990. The dwelling contains 2,320 square feet of living area and features central air conditioning, a fireplace, a partial crawl-space foundation and partial finished basement along with a two-car garage of 400 square feet of building area. There is also a screen porch of 192 square feet of building area. The subject property is located in West Dundee, Dundee Township, Kane County.

The appellant Carlo Capobianco appeared before the Property Tax Appeal Board on behalf of both appellants arguing that the fair market value of the subject was not accurately reflected in its assessed value. Appellant Capobianco noted in the course of the hearing that he is a deputy township assessor in a nearby county. In support of the appellants' overvaluation argument, they supplied a grid analysis consisting of seven comparable sales along with color photographs of the subject and comparables along with a written argument accusing the assessing officials of

"sales chasing" in that each of the recently sold properties had an upward adjustment in its' assessment after the sale.

From the grid analysis, the comparables were said to be Danberry model homes, Elevation "A", like the subject and located in the immediate vicinity of the subject. All of the comparables were described as two-story single-family dwellings, five of which had frame exterior construction and two of which had frame and masonry exterior construction. The comparables were built between 1988 and 1992. Three comparables have no basement, three comparables have a partial basement, and one comparable has a full finished basement.[1] Appellants also contend based on Multiple Listing Service data on comparable #2 that it has two fireplaces as opposed to the one fireplace reported by the assessor for this comparable; the remaining six comparables each have one fireplace. Each comparable has a two-car attached garage and each comparable had 2,320 square feet of living area. These properties sold between July 1988 and January 2007 for sale prices ranging from $165,000 to $339,800 or from $71.12 to $146.47 per square foot of living area including land. Appellants also reported that the subject property was purchased in September 2005 for $333,000 or $143.53 per square foot of living area, including land.

To support the contention that the assessor was engaged in sales chasing, the appellants also reported that these properties had total assessments ranging from $81,331 to $107,792 or from $35.06 to $46.46 per square foot of living area, including land.

Based on this evidence, the appellants requested a reduction in the subject's total assessment to $97,621 which would reflect an estimated fair market value of $292,892 using the 2006 three-year median level of assessments for Kane County of 33.33%.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of $102,761 was disclosed. Based on this total assessment, the subject property has an estimated market value of $308,314 or $132.89 per square foot of living area, including land, using the 2006 three-year median level of assessments for Kane County of 33.33%. In support of the subject's assessment, the board of review submitted a grid analysis of appellants' comparables #1 through #4 along with a letter from the township assessor and a spreadsheet comparing the subject to appellants' seven comparables. In the letter, the township assessor contended that the subject property has more amenities than the comparables.

In response to the appellants' comparables, the assessor reiterated all seven of appellants' comparables setting forth the parcel number, total assessment, address, age, size, basement square footage, finished basement square footage, number of fireplaces, deck size, porch size, and shed with assessment

[1] Based on listing data, comparable #2 was said to have a full finished basement of 1,160 square feet of building area.

figures applied to some of the amenities. In summary, the ages of the properties vary slightly from what appellants reported, but there are no size disputes regarding living area square footage or basement size. The assessor does not display two fireplaces for appellants' comparable #2, but does indicate the subject property has a 208 square foot open frame porch and a 120 square foot shed, neither of which is present in the appellants' comparables.

In support of the assessment and from the assessor's records, the board of review presented appellants' comparables #1 through #4 as two-story frame or frame and masonry dwellings of 2,320 square feet of living area. The comparables were built between 1990 and 1992 and featured basements of either 1,040 or 1,160 square feet of building area. Three comparables had finished basement areas ranging from 247 to 789 square feet of building area. Comparable #2 was described as having one fireplace and 789 square feet of finished basement area despite the inclusion of a multiple listing sheet for the property indicating there were two fireplaces and a "full" finished basement. The board of review also reported that comparables #1 through #3 sold between January 2004 and June 2006 for prices ranging from $287,500 to $339,800 or from $123.92 to $146.47 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Appellants' written rebuttal evidence consisted of a matched pair analysis of the improvement assessments of appellants' comparables #2 through #4 which were reiterated by the board of review and in the assessor's comparison spreadsheet; appellants excluded comparable #1 because it features a two-tier deck and has three and one-half bathrooms. In this analysis, appellants extracted adjusted cost figures for amenities such as porches, finished basement, decks and fireplaces based upon the figures in the assessor's spreadsheet. From this data, appellants contend there is no apparent consistency in the assessment of similar model dwellings in the subject's neighborhood where the comparables had matched pair improvement assessments that ranged from $28.73 to $32.36 per square foot of living area as compared to the subject with an improvement assessment of $33.23 per square foot of living area.

After hearing the testimony and reviewing the record, 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 appellants contend 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 appellants have not met this burden.

The parties submitted a total of seven comparables for the Board's consideration. The Board has given less weight to appellants' comparables #5, #6 and #7 due to their dissimilar foundation as compared to the subject's partially finished basement foundation. Thus, the Board finds the remaining four comparables submitted by both parties to have been the most similar to the subject in location, size, style, features and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from $63,838 to $82,171 or from $27.52 to $35.42 per square foot of living area. The subject's improvement assessment of $77,140 or $33.25 per square foot of living area is within this range. The subject features a superior open frame screened porch and a shed not present in any of the comparable properties. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted on grounds of lack of uniformity.

The appellants also contend the assessment of the subject property is excessive and not reflective of its market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002). The Board finds the evidence in the record does not support a reduction in the subject's assessment based on alleged overvaluation.

The parties submitted a total of seven comparable sales for the Board's consideration. Again, the Board has given less weight to appellants' comparable sales #5, #6 and #7 not only because of the differences in foundation of these dwellings as compared to the subject, but the sales occurred between July 1988 and September 2003 which makes those sales less relevant in determining market value as of January 1, 2006. The Board finds the remaining four comparables submitted by both parties were most similar to the subject in size, design, location and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables sold between January 2004 and January 2007 for prices ranging from $287,500 to $339,800 or from $123.92 to $146.47 per square foot of living area, including land. The subject's assessment reflects a market value of approximately $308,314 or $132.89 per square foot of living area, including land, using the 2006 three-year median level of assessments for Kane County of 33.33%. The Board finds the subject's assessment reflects a market value that falls within the range established by the most similar comparables on a per square foot basis. After considering the most comparable sales on this record, the Board finds the appellants did not demonstrate the subject property's assessment to be excessive in relation to its market value and a

reduction in the subject's assessment is not warranted on this record.

Lastly, the Illinois 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 omitted.]
>
> 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 omitted.] *Id.* at 401.

In this context, the Illinois 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. The Property Tax Appeal Board finds the subject property sold in September 2005 for $333,000 and the subject property has an improvement assessment of $33.25 per square foot of living area, similar to the range of the comparable properties presented. Moreover, the subject's improvement assessment on a per square foot basis falls directly between the two most similar sale prices of $310,000 and $339,800 presented as appellants' comparables #1 and #2. The Board finds the subject's per square foot improvement assessment is well justified giving consideration to the credible market evidence contained in the record which establishes that the subject was sold at the higher end of the range of recent sale prices and in light of its additional features not enjoyed by the comparables. Furthermore, the subject's assessment reflects a market value of $308,314 which is below its recent sale price.

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, 169 N.E.2d 769 (1960). Although the comparables presented by the parties 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 in this record.

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.