



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

APPELLANT: Thomas & Karen Heroldt
DOCKET NO.: 06-02072.001-R-1
PARCEL NO.: 09-09-253-001

The parties of record before the Property Tax Appeal Board are Thomas and Karen Heroldt, 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: \$ 35,523
IMPR: \$110,179
TOTAL: \$145,702

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 1.48-acre parcel improved with a two-story frame and masonry dwelling built in 1990. The dwelling contains 3,047 square feet of living area and features central air conditioning, two fireplaces, a partial unfinished basement, and a three-car garage of 864 square feet of building area. The subject also has a 352 square foot screened porch along with a 342 square foot and a 24 square foot deck. The property is located in St. Charles, St. Charles Township, Illinois.

The appellant Thomas Heroldt appeared before the Property Tax Appeal Board on behalf of the appellants contending unequal treatment in the assessment process with regard to the subject improvement; no dispute was raised concerning the land assessment. In support of the inequity argument, the appellants presented a grid analysis of three comparable properties along with applicable property record cards. Appellants also submitted a data sheet to support a general decline in housing values.

In the Residential Appeal form, the appellants also reported that the subject property was purchased in May 2003 for \$419,000 or

\$137.51 per square foot of living area including land. In addition, the appellants submitted an appraisal of the subject property with an opinion of the estimated fair market value as of March 26, 2003 of \$420,000. The appellants did not have the appraiser present for testimony and/or cross-examination at the hearing. The appellants sought to rely upon the appraisal primarily with regard to the reported size of the subject dwelling as having 2,961 square feet of living area.

As a preliminary matter, the board of review objected to consideration of the appraisal due to the date of valuation being too distant from January 1, 2006 and the failure of the appellants to present the appraiser for testimony and potential cross-examination at hearing. The Property Tax Appeal Board overrules the board's objection to the appraisal based on the date of valuation as case precedent holds there is no requirement to file specific evidence with the Property Tax Appeal Board (i.e., an appraisal with a date of value identical to the date of value being challenged). (See 86 Ill. Admin. Code, Sec. 1910.65(c) of the Official Rules of the Property Tax Appeal Board). The Property Tax Appeal Board sustains the objection to consideration of the opinion of value contained within the appraisal without the presence of the appraiser at hearing for testimony and cross-examination concerning the basis for the opinion of value, adjustments made, and methodology used.

As noted above, appellants contend the subject dwelling contains 2,961 square feet of living area whereas the board of review asserted that a small overhang area on the second floor of the dwelling adds 86 square feet of living area to the subject for a total living area of 3,047 square feet. In response, appellants contend this disputed overhang area consists of portions of bathrooms and a walk-in closet which are not "living areas" according to a realtor.

Based on the evidence presented, the Property Tax Appeal Board finds that the assessor uniformly measures exteriors of improvements to calculate living area square footage. Therefore, the Property Tax Appeal Board finds the best evidence in the record of the subject's living area square footage was presented by the board of review and the subject dwelling is found to contain 3,047 square feet of living area.

In support of the appellants' inequity argument, a grid analysis was presented with three comparable properties located in the subject's subdivision and within 1/3 mile of the subject property. The comparables consisted of two-story frame and masonry dwellings built in 1989 or 1990 and featured central air conditioning, one fireplace, a full unfinished basement, and garages ranging in size from 690 to 705 square feet of building area. Each comparable also had a deck ranging in size from 224 to 491 square feet. The comparable dwellings ranged in size from 2,735 to 2,911 square feet of living area and had improvement assessments ranging from \$98,079 to \$101,513 or from \$34.87 to \$36.81 per square foot of living area. The subject property had

an improvement assessment of \$110,179 or \$36.16 per square foot of living area based on 3,047 square feet of living area.

Appellants also presented a printout of median home sale prices in quarterly increments from late 2002 to June 2007. During this period, the median sale price was reported to range from \$286,000 to \$368,000 with the low occurring in late 2002 and the high end of the range occurring in the second quarter of 2006. From this data sheet, the appellants asserted that the median price in St. Charles has gone down by 16%.

On the basis of the foregoing evidence, appellants felt that an improvement assessment of \$104,477 or \$34.29 per square foot of living area was appropriate for the subject dwelling.

The board of review presented its "Board of Review Notes on Appeal" wherein its final assessment of \$145,702 for the subject property was disclosed. This assessment reflects an estimated fair market value of \$437,150 or \$143.47 per square foot of living area including land based upon 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 presented data from the township assessor regarding the square footage of the subject and a grid analysis of five suggested comparables. The letter from the township assessor noted the dwelling's square footage as cited by the appellants failed to take into consideration an 86 square foot overhang along the back of the residence's second story raising the size to 3,047 square feet of living area.

The comparables presented by the board of review were all said to be within the subject's subdivision and of the same quality of construction as the subject. The board of review's analysis as presented by the assessor further noted none of the comparables presented have the subject's screened porch and/or third bathroom; downward adjustments would also be necessary for comparables with finished basement areas; and the subject has a larger garage than any of the comparables presented.

In support of the subject's assessment, the five comparables were described in a grid analysis as two-story masonry or frame and masonry dwellings built between 1989 and 1994. Features of the comparables included central air conditioning, one or two fireplaces, full basements, two of which included finished areas of 620 and 630 square feet of building area, respectively, and one of which had an English style basement. The comparables also had garages ranging from 745 to 868 square feet of building area and three comparables have decks ranging in size from 290 to 690 square feet; four comparables have patios ranging in size from 228 to 435 square feet. The dwellings range in size from 2,995 to 3,252 square feet of living area. These comparables have improvement assessments ranging from \$110,017 to \$118,641 or from \$36.36 to \$38.83 per square foot of living area. Based on its analysis of these properties, the board of review requested confirmation of the subject's improvement assessment of \$36.16 per square foot of living area.

In rebuttal at the hearing, appellant Heroldt argued that the four year difference in age in several of the comparables presented by the board of review makes those inappropriate comparable properties. Additionally, appellant Heroldt argued that the full and finished basements of the comparables differ from the subject's partial crawl-space with partial unfinished basement design.

Furthermore, in written rebuttal filed in this matter, the appellants noted that the subject's square footage had been grossly overstated at 3,570 square feet for years prior and the assessment of the subject has again increased in light of the contention of 3,047 square feet of living area.¹ Appellants further submitted new evidence of two home sales for \$460,000 each to dispute the assessor's contention of rising home values in St. Charles. Appellants further dispute the considerations the assessor contends are appropriate for the subject's three-car garage and the screened porch when the board of review's comparables have nine-foot ceilings and higher quality building materials than the subject. Appellants dispute the assessor's low adjustment figure per square foot for finished basement areas and argued the increased improvement assessments of the comparables have been less than the subject from 2003 to 2004.

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 Property Tax Appeal Board finds that a reduction in the subject's improvement assessment is not warranted on this record.

Initially, appellants' new evidence submitted in rebuttal regarding two home sales cannot be considered on this record. Pursuant to the Official Rules of the Property Tax Appeal Board, rebuttal evidence is limited to that written or documentary evidence "to explain, repel, counteract or disprove facts given in evidence by an adverse party." (86 Ill. Admin. Code, Sec. 1910.66(a)). "Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties." (86 Ill. Admin. Code, Sec. 1910.66(c)).

The appellants claimed lack of uniformity in the assessment process. 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

¹ The Property Tax Appeal Board considers the Final Decision of the Kane County Board of Review with a total 2006 assessment of \$145,702 only and has no jurisdiction over any subsequent 2007 or later increase in assessment in Docket No. 06-02072.001-R-1.

assessment data, the Board finds that the appellants have failed to overcome this burden.

The appellants argued in part that the subject's assessment was inequitable because of the increases in its assessment from year to year as compared to neighboring properties. The Property Tax Appeal Board finds this type of analysis is not an accurate measurement or a persuasive indicator to demonstrate assessment inequity by clear and convincing evidence. The Board finds rising or falling assessments from year to year do not indicate whether a particular property is inequitably assessed. The assessment methodology and actual assessments together with their salient characteristics of properties must be compared and analyzed to determine 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 depending on prevailing market conditions and prior year's assessments.

In all the parties submitted eight comparable properties for the Board's consideration for this assessment appeal as of January 1, 2006. These eight comparables presented by the parties had improvement assessments ranging from \$98,079 to \$118,641 or from \$34.87 to \$38.83 per square foot of living area, while the subject was assessed at \$110,179 or \$36.16 per square foot of living area, well within the range of the comparables presented. Furthermore, the Board finds that the subject property features an additional fireplace, screened porch and slightly larger garage than the majority of the comparables presented by both parties. 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.

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 appellants 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 appellants have 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.



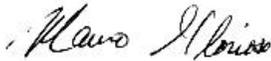
Chairman



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.