



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

APPELLANT: Kevin Sharp  
DOCKET NO.: 06-02449.001-F-1  
PARCEL NO.: 08-12-400-005

The parties of record before the Property Tax Appeal Board are Kevin Sharp, the appellant, and the Boone 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 Boone County Board of Review is warranted. The correct assessed valuation of the property is:

<b>F/Land:</b>	\$0
<b>Homesite:</b>	\$57,032
<b>Residence:</b>	\$24,038
<b>Outbuildings:</b>	\$0
<b>TOTAL:</b>	\$81,070

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject parcel of 16.54-acres is improved with a part one-story and part one and one-half-story frame dwelling that is 102 years old<sup>1</sup> and outbuildings. The dwelling contains 1,214 square feet of living area and features a partial unfinished basement. The property is located in Garden Prairie, Spring Township, Boone County.

A consolidated hearing was conducted on Docket Nos. 06-02449.001-F-1, 07-02543.001-R-1 and 08-01838.001-R-1. At hearing, appellant withdrew the 2008 assessment appeal and a letter closing that matter based on the withdrawal has issued. Separate decisions will issue on the other two docket numbers.

The appellant appeared before the Property Tax Appeal Board contending unequal treatment and improper classification of land that was subject to flooding as the bases of this 2006 appeal; no

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<sup>1</sup> The subject's property record card reports "year constructed" 1904.

dispute was raised concerning the subject's improvement assessment. The matter was set for hearing and the appellant essentially stood on the written record along with providing some testimony in which he emphasized the flooding suffered by the property as outlined in his appeal and arguing that property values over the years have been artificially inflated in the area which effected all of the area properties.

As part of the appeal, the appellant presented aerial photographs of the subject property denoting the flood zone with green dots (Exhibits A and B) along with color photographs depicting flooding on the northwest and across County Line Road (Exhibits D and E).<sup>2</sup> At the hearing, the appellant testified that when he first purchased the property in 1983, Coon Creek running through the subject land was about two feet wide. As of about 2007, that same creek was about sixteen feet wide. Appellant testified that while he had cleared an area near the creek for a picnic table and grill, since that time the creek washed away those items.

In a further submission, appellant presented a FEMA flood zone map and wrote that if the Property Tax Appeal Board needed appellant to obtain an appraisal of the property, appellant needed an extension of time. Admittedly in the processing of this matter, the Property Tax Appeal Board did not recognize the foregoing as a specific request for an extension of time pursuant to the Board's Official Rules. Therefore, in the absence of identifying a request by the appellant for an extension of time to submit additional evidence, the Board notified the Boone County Board of Review of this appeal with the documentation presented as of that time. Shortly after having notified the board of review of this appeal, on January 16, 2008 the appellant unilaterally submitted an appraisal of the subject property. The record of the Property Tax Appeal Board does not reflect forwarding of this appraisal evidence to the board of review in this appeal, although the same appraisal was presented by the appellant in his 2007 assessment appeal filed with the Property Tax Appeal Board which was served on the board of review as part of Docket No. 07-02543.001-R-1.

The appraisal report was prepared by Robert L. Zahn of Appraisal Services of Rockford with a valuation date of January 10, 2008. The appraiser described the subject as located in a rural area with scattered homes mostly on acreage sites. The appraiser also reported typical marketing time for the area was 3 to 6 months and the supply/demand of properties appeared to be in balance. In describing the subject site, the appraiser noted the subject was not in a "FEMA Special Flood Hazard Area" and referenced FEMA Zone maps A & C; however, the appraiser also reported "the improvements are located in Flood Zone 'C.'"

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<sup>2</sup> The data on flooding was filed in November 2007 and appellant indicated the photographs (Exhibits D and E) were "from last year." Also a more recent photograph of flooding was identified as Exhibit F.

The appraiser described the parcel as containing 16.54-acres and the dwelling as containing 1,397 square feet of living area. The appraiser also reported the subject had additional features of a workshop of 833 square feet, an outbuilding of 3,260 square feet, and a security system. The appraiser performed the sales comparison approach to value analyzing three sales noting "there were no recent comparable sales on larger sites available for review." In the report, the appraiser remarked the sales were in the subject's market area, even though they were over six months old and large adjustments were necessary. The three comparables were from 9.6 to 18.1-miles from the subject. The parcels ranged in size from 5 to 9.84-acres and were improved with one-story or two-story frame or brick dwellings that ranged in age from 27 to 101 years old. The dwellings ranged in size from 1,523 to 2,196 square feet of living area and each comparable has a full unfinished basement and central air conditioning. One comparable has a fireplace and two comparables have two-car garages and outbuildings. These comparables sold between April and July 2007 for prices ranging from \$215,000 to \$279,000 or from \$122.95 to \$183.19 per square foot of living area including land. The appraiser made adjustments for site, dwelling exterior construction, age, dwelling size, air conditioning, and other features. After adjustments, the appraiser reported adjusted sale prices ranging from \$152,600 to \$256,900 or from \$94.78 to \$168.68 per square foot of living area including land. From this analysis, the appraiser expressed an opinion of market value for the subject of \$225,000 under the sales comparison approach as of January 10, 2008.

In his written materials, appellant reported the subject property was offered for sale in 2004. The only offer was for \$170,000, but the potential buyer could not qualify for financing and a sale was not finalized. Also, as part of his summation, appellant noted the subject property was on the market for a period of time (date of listing was not specified). The appellant testified that the only offer was from a nursery for "the low \$200,000's." However, once the potential buyer learned that nearly 30% of the land was in a flood zone, the offer to purchase was withdrawn.

While the appellant originally contended inequity of assessments in comparison to three specific comparable properties, at hearing the appellant acknowledged that those properties are farmed so as to receive the preferential farmland assessment provided for in the Property Tax Code (35 ILCS 200/10-110, et al.). Moreover, the appellant made no assertion at hearing of any farming activity occurring on the subject property as defined in the Property Tax Code. Therefore, the appellant acknowledged that the subject property was not entitled to a land assessment similar to those of the three comparables presented in this appeal.

Based on the foregoing evidence, the appellant requested the total assessment be reduced.<sup>3</sup>

The board of review presented its "Board of Review Notes on Appeal" wherein its final assessment of \$81,070 for the subject property was disclosed. The subject's assessment reflects an estimated market value of \$245,295 using the 2006 three-year median level of assessments for Boone County of 33.05%.

In response to the flooding issue, the board of review acknowledged that as depicted in the aerial photograph of the subject, the parcel's northern boundary lies along a creek bed. Moreover, the board of review contended that the issue of flooding was addressed by the Boone County Board of Review by a 20% debasement of the area that appeared to have the most flooding or 3.42-acres. The board of review contended that the appellant failed to present evidence to support an additional debasement due to the flooded area.

In response to the appellant's appraisal, the board of review noted one of the comparable sales in the appraisal was a foreclosure sale which the board of review contends is not appropriate for comparison or reflective of market value.

After noting the lack of farming activity on the subject as compared to the appellant's suggested comparables, the board of review contended that the 'residential' portion or homesites of the appellant's comparables were valued like the subject. Based on the property record card, appellant's comparable #3 was entirely assessed under the farmland provisions of the Property Tax Code. As to appellant's comparables #1 and #2, these properties had 1.3 and 1.35-acre homesites, respectively, which were assessed based on market value. The assessor's methodology reportedly was the first acre was valued at \$30,000 plus \$10,000 for the well and septic; residual acreage was valued through a regression valuation process that values more acres at less value per acre. The board of review in analyzing appellant's comparables #1 and #2 reported the subject's land only of 16.54-acres had an estimated market value of \$171,096 or \$10,344 per acre whereas comparables #1 and #2 had homesite estimated market values of \$44,535 and \$45,240 or \$34,258 and \$33,511 per homesite acre, respectively.

In further support of the subject's assessment, the board of review presented a grid analysis of nine comparable sales of properties located in Spring Township. The parcels range in size from 1.69 to 20-acres and have been improved with one-story, one and one-half-story, or two-story frame dwellings that were built between 1890 and 1965. The dwellings contain from 964 to 2,296

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<sup>3</sup> In his written rebuttal, appellant acknowledged an error in his assessment reduction request and asked that both the 2006 and 2007 appeals reflect a total assessment request of \$67,873 or a market value of approximately \$203,619.

square feet of living area. Eight comparables have basements; one comparable has central air conditioning and a fireplace. Four comparables have garages, one of which has both an attached and a detached garage. The board of review contended that its comparable #2, while a smaller one-story dwelling that was built in 1965, was presented due to its 20-acres of non-tillable land. These nine comparables sold between May 2003 and January 2006 for prices ranging from \$125,000 to \$310,000 or from \$79.57 to \$321.58 per square foot of living area including land. As to the foregoing sales data, the board of review argues that these sales would mostly require an upward adjustment for time as Boone County had an active market reflective of a 12.45% increase in market value from 2003 to 2005.

Based on the foregoing data, the board of review requested confirmation of the subject's assessment.

In written rebuttal filed as to both the 2006 and 2007 assessment appeals, appellant pointed out that the board of review comparable sales were 3 to 5 years old although "per Boone County's own rules comparables need to be recent with[in] the last 6 months."

The appellant also noted the board of review's reference to a gate on the subject's driveway along with a no trespassing sign. To this appellant responded that he has invited the assessing officials to inspect the subject property with contact phone numbers for the appellant to arrange an appointment, but no such contact has been made.

Lastly, appellant asserted the appraisal of the subject property with a valuation date of January 2008 was appropriate for these 2006 and 2007 assessment appeals as the appraisal was contracted for in 2008. Moreover, the subject and comparable parcels were zoned agricultural (rural, undeveloped or farming) and therefore appellant contends those agriculturally zoned properties should be assessed similarly.<sup>4</sup>

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 appellant disputed the land assessment of the subject property. In doing so, the appellant sought to compare the subject land with comparables that have received the preferential farmland assessment provided for in the Property Tax Code. Since the appellant concedes that there is no qualified farming activity occurring on the subject property, there is no basis for

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<sup>4</sup> As noted previously, the appellant has already acknowledged that parcels engaged in farming activity as defined in the Property Tax Code are entitled to a preferential farmland assessment different from the subject property, regardless of zoning classification.

the subject property to receive a preferential farmland assessment.

Appellant also disputed the assessment of the subject land due to repeated flooding. In accordance with the Section 10-115 of the Property Tax Code related to farmland assessments, the Department of Revenue issued Publication 122, "Farmland Implementation Guidelines." The guidelines provide the procedure to be used in making an adjustment for the flooding of cropland. The Property Tax Appeal Board finds the appellant conceded that no portion of the subject land was used in farming activities. As a result, this parcel does not qualify for any flood adjustment since only cropland that suffers actual crop loss is entitled to any such adjustment pursuant to the Property Tax Code.

With the submission of an appraisal, arguably the appellant also asserted that the subject property was overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 183, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). After an analysis of the evidence, the Board finds the appellant has not overcome this burden.

In support of the overvaluation argument, the appellant presented an appraisal with a valuation date of January 10, 2008 opining a market value for the subject of \$225,000 or \$185.34 per square foot of living area including land. The Board finds that in the absence of the appraiser at hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appraiser. Novicki v. Dept. of Finance, 373 Ill. 342 (1940); Grand Liquor Co., Inc. v. Dept. of Revenue, 67 Ill. 2d 195 (1977); Jackson v. Board of Review of the Dept. of Labor, 105 Ill. 2d 501 (1985). The Board finds the appraisal report is tantamount to hearsay. Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill. App. 3d 887 (1<sup>st</sup> Dist. 1983).

Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2<sup>nd</sup> Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1<sup>st</sup> Dist. 1971). In the absence of an appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusion of \$225,000 as of January 2008 has been significantly diminished and cannot be deemed conclusive as to the value of the subject property.

Examining the raw sales data in the appraisal, there are three comparable sales that were from 9.6 to 18.1-miles from the

subject. The parcels range in size from 5 to 9.84-acres and are improved with one-story or two-story frame or brick dwellings that range in age from 27 to 101 years old. The dwellings range in size from 1,523 to 2,196 square feet of living area and each comparable has a full unfinished basement and central air conditioning. One comparable has a fireplace and two comparables have two-car garages and outbuildings. These comparables sold between April and July 2007 for prices ranging from \$215,000 to \$279,000 or from \$122.95 to \$183.19 per square foot of living area including land. The Property Tax Appeal Board find the appraiser's Sales #2 and #3 are sufficiently similar in age to the subject dwelling for comparison purposes despite their parcel sizes being about 1/3 of the subject property. These two properties sold in April 2007 for \$122.95 and \$183.19 per square foot of living area including land.

The board of review presented nine suggested comparable sales. The most similar dwellings in age presented by the board of review were Sales #1, #3 and #6. Again, these properties consist of only 1/2 or less of the land area of the subject and sold between September 2003 and January 2006 for prices ranging from \$83.11 to \$133.93 per square foot of living area including land.

The subject's assessment reflects an estimated market value of \$245,295 or \$202.06 per square foot of living area including land which is higher on a per-square-foot basis than the most similar comparables on this record. However, after considering adjustments to the comparables for any differences when compared to the subject and in particular given the subject's 16.54-acres, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is supported and no reduction in the subject's assessment is warranted on this record.

Based on this record, the Property Tax Appeal Board finds that the board of review correctly assessed the land on the subject parcel as non-farmland and the property is not entitled to any additional debasement for flooding as it is not farmland. Furthermore, the record evidence does not support a reduction in assessment of the subject property.

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 M. Louie*

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: March 18, 2011

*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.