

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Wayman & Jacqueline DeClue  
DOCKET NO.: 06-02455.001-R-1  
PARCEL NO.: 06-21.0-220-011

The parties of record before the Property Tax Appeal Board are Wayman & Jacqueline DeClue, the appellants, and the St. Clair County Board of Review.

The subject property is a two-story frame dwelling containing 1,920 square feet of living area that was built in 2004. Features include a crawl space foundation, central air conditioning, a fireplace and a 432 square foot attached garage. The dwelling is situated on a 7,500 square foot lot.

The appellants submitted evidence before the Property Tax Appeal Board claiming unequal treatment in the assessment process and overvaluation as the bases of the appeal. In support of these claims, the appellants submitted photographs, property record cards, a settlement statement and three assessment comparables.

The three equity comparables consist of a two-story style and two, one-story style frame or frame and masonry dwellings that are from 14 to 30 years old. The comparables are located approximately ¼ or ½ of a mile from the subject. Two comparables have unfinished basements and one comparable does not have a basement. Other features include central air conditioning, one fireplace and garages ranging in size from 552 to 899 square feet. The dwellings range in size from 1,652 to 1,886 square feet of living area and have 2006 equalized improvement assessments ranging from \$33,602 to \$44,261 or from \$19.39 to \$21.88 per square foot of living area. The subject property has an equalized improvement assessment of \$44,626 or \$23.24 per square foot of living area.

To demonstrate the subject's lot was being inequitably assessed, the appellants submitted three land comparables located in very close proximity along the subject's street. The lots contain 7,500 square feet of land area and have equalized land assessments ranging from \$9,557 to \$9,668 or from \$1.27 to \$1.29 per square foot of land area. The subject property has a land assessment of \$10,921 or \$1.46 per square foot of land area.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the St. Clair County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	9,557
IMPR.:	\$	35,764
TOTAL:	\$	45,321

Subject only to the State multiplier as applicable.

In support of the overvaluation argument, the appellants submitted a settlement statement indicating the subject property was purchased from the builder for \$136,303 in July 2004. Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$55,547 was disclosed. The subject's assessment reflects an estimated market value of \$167,059 using St. Clair County's 2006 three-year median level of assessments of 33.25%.

In support of the subject's assessment, the board of review submitted property record cards, aerial photographs and an assessment analysis of four suggested comparables. Three comparables are located in close proximity along the subject's street while one comparable is located six blocks from the subject. The comparables consist of two, multi-level and two, two-story dwellings of frame or frame and masonry construction that were built in 2004 or 2005. The comparables have crawl space foundations, central air conditioning and garages ranging in size from 432 to 680 square feet. Three comparables have one or two fireplaces. The dwellings range in size from 1,438 to 2,286 square feet of living area and have improvement assessments ranging from \$41,418 to \$47,676 or from \$20.76 to \$28.80 per square foot of living area. The subject property has an improvement assessment of \$44,626 or \$23.24 per square foot of living area.

The comparables are situated on lots that contain 7,500 square feet of land area with land assessments ranging from \$9,557 to \$11,732 or from \$1.27 to \$1.56 per square foot of land area.

The board of review did not submit any market evidence, such as similar comparable sales, to address the appellants' overvaluation argument, or credible evidence refuting the arm's-length nature of the subject's transaction. Based on the evidence submitted, the board of review requested confirmation of the subject's assessment.

After reviewing the record 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 assessment is warranted.

The appellants first argued the subject property was inequitably assessed. 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 evidence, the Board finds a reduction in the subject's assessment is warranted on this basis.

With respect to the subject's improvement assessment, the Property Tax Appeal Board finds the record contains seven suggested equity comparables for consideration. The Board placed less weight on the comparables submitted by the appellants. Notwithstanding their distant location, all the comparables are older; two comparables are dissimilar one-story style dwellings; and two comparables have basements, which are significant dissimilarities when compared to the subject. The Board also gave little weight to three of the four comparables submitted by the board of review. Two comparable are dissimilar multi-level (split-level) style dwellings and one comparable is smaller when compared to the subject. The Board finds the one remaining assessment property submitted by the board of review is the most similar comparable contained in this record in terms of age, size, design, location, and amenities. It has an improvement of \$22.61 per square foot of living area. The subject property has an improvement assessment of \$23.24 per square foot of living area, which higher than the only similar assessment comparable contained in this record. Therefore, the Board finds the evidence supports a reduction in the subject's improvement assessment.

With respect to the subject's land assessment, the Property Tax Appeal Board finds the record contains seven land comparables for consideration. All the comparables are located in the same subdivision as the subject, with six comparables located in close proximity along the subject's street. All the comparables are identical in size as the subject with 7,500 square feet of land area. They have land assessments ranging from \$9,557 to \$11,732 or from \$1.27 to \$1.56 per square foot of land area. The subject property has a land assessment of \$10,921 or \$1.46 per square foot of land area. The Property Tax Appeal Board finds six of the seven comparables have lower land assessments when compared to the subject, which demonstrates a consistent pattern of assessment inequity within the subject's subdivision. The Board finds the board of review offered no reasonable evidence or explanation demonstrating why identical lots located within the same subdivision, under the same market influences have dissimilar land assessments. Based on this analysis, the Board finds a reduction in the subject's land assessment is warranted.

The appellants also argued the subject property is 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). The Board finds the appellants have overcome this burden.

The appellants submitted a settlement statement indicating the subject property was purchased from the builder for \$136,303 in

July 2004, 17 months prior to the subject's January 1, 2006, assessment date. The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the seller is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428 (1970). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1<sup>st</sup> Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

Furthermore, section 1-50 of the Property Tax Code defines fair cash value as:

The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50)

The Property Tax Appeal Board finds there is no evidence contained in this record showing the subject transaction was not an arm's-length transaction. Furthermore, the Board finds the board of review did not submit any market evidence, such as similar comparable sales, to address the appellants' overvaluation argument or evidence refuting the arm's-length nature of the subject's sale. Based on this analysis, the Board finds the best and only evidence of the subject's fair market value contained in this record is its July 2004 sale price of \$136,303. The subject's assessment reflects an estimated market value of \$167,059, which is considerably higher than its sale price. Therefore, the Board finds a reduction in the subject's assessed valuation is supported.

Based on this analysis, the Property Tax Appeal Board finds the appellants have demonstrated the subject property was inequitably assessed by clear and convincing evidence and overvalued by a preponderance of the evidence.

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.



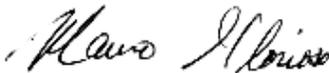
Chairman



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: March 20, 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.