



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

APPELLANT: Larry Whitaker
DOCKET NO.: 07-00156.001-R-1
PARCEL NO.: 18-19-201-004-0040

The parties of record before the Property Tax Appeal Board are Larry Whitaker, the appellant, by attorney Gilbert H. Saikley of Saikley, Garrison, Colombo & Barney, LLC, in Danville; and the Vermilion 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 Vermilion County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 3,398
IMPR.: \$ 41,598
TOTAL: \$ 44,996

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one and one-half "Tudor" style single-family dwelling of stucco and frame exterior construction containing 2,035 square feet of living area. The original dwelling is approximately 30 years old, but a family room addition was constructed in 1992. The dwelling was constructed over a concrete slab foundation. Features include central air conditioning, a fireplace, two decks, a patio, an attached one car garage, a 576 square foot finished free standing workshop and an outdoor staircase providing lake access. The subject dwelling is situated on a 16,128 square foot lake view lot in Blount Township, Vermilion County, Illinois.

The appellant appeared before the Property Tax Appeal Board with counsel claiming the subject's assessment was incorrect based on a contention of law. The appellant did not contest the subject's land assessment. More specifically, the appellant argued Vermilion County Assessment officials illegally "chased" the subject's 2005 sale price in arriving at its 2007 final assessment.

Counsel submitted a legal brief outlining the appellant's case in chief. The first line of the brief states:

Appellant does not challenge the amount of the assessed valuation, but Appellant believes he is victim of "sale chasing".

The appellant's legal brief acknowledged the appellant purchased the subject property in 2005 for \$150,000. In 2005, the subject property had an assessment of \$17,923, which reflected an estimated market value of \$53,774. After the subject's sale, the appellant alleged the subject's assessment increased to \$44,996, which reflects an estimated market value of \$135,002. (See Exhibit A¹) Following the assessment change notice, the record indicates the appellant filed an informal complaint with Vermilion County Assessment Officials, wherein the subject's assessment was further increased to \$49,271, which reflects an estimated market value of \$147,828, but then reduced to \$44,996. (See Exhibit B²). Upon formal complaint, the Vermilion County Board of Review issued a final decision (PTAX-207) wherein the subject's assessment remained unchanged at \$44,996, which reflects an estimated market value of \$135,002. The final decision was dated January 17, 2008.

Appellant alleged that in his small neighborhood no other properties were re-assessed except the subject property. In support of this claim, the appellant referred to Exhibits C, D and E that are comprised of three neighboring properties. In 2005, these properties had total assessments ranging from \$18,943 to \$23,644. In 2007, their assessments reportedly ranged from \$20,743 to \$25,890. No descriptions of the properties' physical characteristics in comparison to the subject property were provided.³ (86 Ill.Adm.Code §1910.65(b)). The appellant alleged that the subject property was the only property substantially reassessed because of its recent sale price. The appellant claimed that if the subject property had not sold, its assessed valuation likely would not have been changed since none of the neighbors' (assessments) changed. However, counsel conceded the assessments of the neighboring properties did increase slightly from 2005 to 2007, but not to the extent as the subject.

¹ Exhibit A is a notice of assessment change for the 2007 assessment year with the real estate taxes payable in 2008. The notice was dated August 28, 2007. The document depicts the Supervisor of Assessments changed the subject's assessment from \$17,923 to \$44,996. The notice also provides "if not satisfied, you have (10) days to file a complaint."

² Exhibit B is a notice of assessment change for the subject regarding the 2007 assessment year. The notice was dated November 6, 2007. The notice provides "If you wish to present additional evidence please send a written request for a hearing within 10 days of the date of this notice. **If you do not request and attend a hearing, this will be your final assessed value.**"

³ By Order, both parties completed a descriptive assessment analysis of the three suggested comparables contained in the appellant's evidence, which will be addressed later herein.

As legal authority in support of the sale chasing claim, the appellant's counsel cited the cases of Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 229 Ill.Dec. 487, (1998), (Exhibit F); Allegheny Pittsburgh Coal Co. v. County Commissioner of Webster County, West Virginia, 488 U.S. 336, 109 S. Ct. 633 (1989), (Exhibit G); and Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989).

Based on the legal claim, the appellant requested the Property Tax Appeal Board reinstate the subject property's 2005 total assessment of \$17,923.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$44,996 was disclosed. The subject's assessment reflects an estimated market value of \$134,397 using Vermilion County's 2007 three-year median level of assessments of 33.48%.

In support of the subject's assessment, the board of review submitted a letter from the Blount Township Assessor (Exhibit 1), the subject's previous property record card (Exhibit 2), a Multiple Listing Sheet detailing the subject's sale price and physical characteristics (Exhibit 3), photographs of the four neighboring properties (Exhibits 4 and 4A), an aerial photograph of the subject's location (Exhibit 5), and two letters addressing the appeal (Exhibit 6).

The township assessor's letter (Exhibit 1) indicates the subject property was reassessed in August 2007. The letter states the subject property was compared to other properties in the area while checking on other assessments as well. The assessor noted the subject sold two years prior to the reassessment. The assessor indicated the subject's selling price was considered, but it was not the main component (in determining its assessment). The square footage of the home had increased and many improvements have been made since the previous assessment.

The subject's previous property record card (Exhibit 2) described the subject property as a one-story dwelling containing 864 square feet of living area with a finished attic. The Multiple Listing Sheet (MLS) (Exhibit 3) described the subject property as a "Tudor" style dwelling containing 2,035 square feet of living area. The MLS sheet described a 1992 addition to the dwelling including a family room exposing year round lake views plus glass doors leading to the patio and a 24 x 24 finished workshop.

The board of review argued the subject sold in 2005 and was not reassessed until 2007 as part of the general quadrennial reassessment in Vermilion County. The board of review argued if 2 years pass before an assessment is changed, it appears to be a very slow chase. The board of review also argued the reason for the subject's assessment increase besides the start of a new general quadrennial reassessment period was the change in the subject's physical characteristics by adding square footage, a new 24 x 24 workshop, and a new patio. These new improvements

have not been updated on the subject's property record card. (Compare Exhibit 2 and Exhibit 3). Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under questioning by the Hearing Officer, Chief County Assessment Officer William R. Kizer testified 2007 was the first year of the new quadrennial general reassessment cycle in Vermilion County. Kizer did not know the assessment methodology employed by the township assessor to determine assessments of residential property within the subject's township.

In rebuttal, counsel argued the subject property was the only property reassessed in 2007 whereas the neighboring properties were "totally ignored". The appellant also complained the assessor did not measure the subject dwelling and used the MLS sheet to ascertain the subject's dwelling size⁴.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and subject matter of this appeal. The Property Tax Appeal board further finds the appellant failed to support the legal contention by a preponderance of the evidence that the subject property was illegally assessed based on "sale chasing." Therefore, the Property Tax Appeal Board finds no reduction in the subject property's assessment is warranted.

The Property Tax Appeal Board finds this record shows the subject property sold in 2005 for \$150,000. The Board finds the Vermilion County Board of Review issued a decision on January 17, 2008 regarding the subject property, setting its final 2007 assessment at \$44,996, which reflects an estimated market value of \$134,397. The Board finds the subject's final 2007 assessment reflects an estimated market value of \$15,603 less than its 2005 sale price, which suggests Vermilion County Assessment Officials did not "chase" the subject's 2005 sale price in determining its final 2007 assessment. In fact, the subject's assessment was not increased during the 2006 assessment year, which further lends support to the conclusion that Vermilion County Assessment Officials did not "chase" the subject's 2005 sale price to calculate its assessed valuation.

The Property Tax Appeal Board finds section 9-215 of the Property Tax Code provides in pertinent part:

In counties having a township form of government and with less than 3,000,000 inhabitants, the general assessment years shall be 1995 and every fourth year thereafter. (35 ILCS 200/9-215).

⁴ The only evidence of the subject's dwelling size is the MLS sheet submitted by the board of review. In addition, the subject's dwelling size was not contested in the appellant's original appeal petition.

The Board finds the new general assessment cycle in Vermilion County began in 2007, in which all parcels in Vermilion County, including the subject property, should have been reassessed pursuant to the Property Tax Code. (35 ILCS 200/9-215). The Board further finds there were multiple physical changes to the subject property since its property record card was last updated. The corrected characteristics of the subject property, regardless of when they were completed, include but are not limited to the addition of central air conditioning, a 1992 addition to the dwelling including a family room exposing year round lake views with glass doors leading to a patio, a 576 square foot finished free-standing workshop, and an outdoor staircase that provides lake access. Any of these improvements could have triggered a revision and correction of the subject's assessment without consideration of its 2005 sale price pursuant to the Property Tax Code. Section 9-75 of the Property Tax Code provides:

The chief county assessment officer of any county with less than 3,000,000 inhabitants, or the township or multi-township assessor of any township in that county, may in any year revise and correct an assessment as appears to be just. Notice of the revision shall be given in the manner provided in Sections 12-10 and 12-30 to the taxpayer whose assessment has been changed. (35 ILCS 200/9-75).

The Property Tax Appeal Board further finds this record is void of any credible evidence or testimony describing the assessment methodology employed to calculate assessments within the subject's township for an equitable review or to demonstrate the subject property was removed from the mass appraisal system to determine its assessed valuation. (See Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 229 Ill.Dec. 487, (1998) and Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989)).

Article 9, Section 4 of the Illinois Constitution of 1970 prohibits taxing properties at different proportions of fair cash value and uniformity of assessments requires equality in the burden of taxation. When an appeal is based on assessment inequity, which was the legal premise alluded to in the appellant's appeal petition, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. 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.]" Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the 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 Board finds there was no showing by the appellant that the subject property was assessed at a different proportion of its true market value than other similarly situated properties in Vermilion County.

The Board finds the record contained limited assessment information submitted by the appellant to further support the contention that the subject's 2007 assessment was based on its 2005 sale price. In the legal brief, the appellant noted the neighboring properties had total assessments ranging from \$18,943 to \$23,644 in 2005. The subject had a total assessment of \$17,923 in 2005. The appellant argued that the subject property was the only property substantially reassessed because of its recent sale price. The appellant claimed that if the subject property had not sold, its assessed valuation likely would not have been changed since none of the neighbors' (assessments) changed. However, counsel conceded the assessments of the neighboring properties did increase slightly from 2005 to 2007, but not to the significant extent as the subject. In 2007, the neighboring properties had assessments ranging from \$20,743 to \$25,890, while the subject property had a total assessment of \$44,996. The percentage of assessment increase of the subject and comparables was also discussed.

The Board finds the evidence does not demonstrate the subject property's assessment was based on its 2005 sale price or is inequitable. The Board finds the relevant provisions of the Property Tax Code and applicable case law provided a mechanism and grants broad powers to township assessors, chief county assessment officers, and boards of review to change, revise, and correct assessments by lowering or increasing individual

assessments by varying percentage rates and amounts to maintain uniform assessments that reflect 33 and 1/3% of fair cash value. 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 prior year's assessments. The Board finds rising or falling assessments from assessment year to assessment year on a percentage basis do not indicate whether a particular property's assessment is illegal, inequitable or overvalued. Actual assessments together with their salient characteristics must be compared and analyzed to determine whether uniformity of assessments exists.

In this context, the Board finds the record contains three suggested comparable properties. (See footnote 3). They consist of one-story frame dwellings that are 34 to 41 years old. Features include unfinished basements, central air conditioning and garages ranging in size from 480 to 576 square feet. Two comparables have a fireplace, one comparable has a screened patio and one comparable has a deck. The dwellings range in size from 1,182 to 1,312 square feet of living area. They have improvement assessments ranging from \$18,913 to \$24,341 or from \$16.00 to \$18.79 per square foot of living area. The subject property has an improvement assessment of \$41,598 or \$20.44 per square foot of living area. The Board finds the subject's higher improvement assessment is well justified given its newer age, larger size different design and superior features. After considering adjustments to the comparables for any differences when compared to the subject, the Property Tax Appeal Board finds the subject's improvement assessment is supported and no reduction is warranted.

In conclusion, the Board finds the appellant failed to show by a preponderance of the evidence that the subject property was illegally assessed by means of "sale chasing." Furthermore, the record does not show unequal treatment in the assessment process 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

K. L. Ferr

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn P. 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: December 3, 2010

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.