



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

APPELLANT: David Furmanek
DOCKET NO.: 07-00511.001-R-1
PARCEL NO.: 07-01-35-405-063-0000

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

LAND: \$51,110
IMPR.: \$211,530
TOTAL: \$262,640

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 3,600 square feet is improved with a two-story dwelling of frame construction containing 3,929 square feet of living area. The dwelling was constructed in 2004. Features of the home include a fully finished basement, central air conditioning, a fireplace, and an attached three-car garage of 715 square feet. The property is located in Plainfield, Wheatland Township, Will County.

The appellant's appeal is based on unequal treatment in the assessment process regarding both the land and improvement assessments. In support of each of these arguments, the appellant prepared a brief and supplied color photographs and a map depicting the subject, comparables and other features. Appellant also reported the subject property was purchased in October 2005 for \$785,000.

As to the land and improvement inequity arguments, the appellant presented three suggested comparable properties located from two to three blocks from the subject. The parcels contained either

3,600 or 10,890 square feet of land area and had land assessments of either \$51,110 or \$73,600 or \$6.76 or \$14.20 per square foot of land area. The subject has a land assessment of \$51,110 or \$14.20 per square foot of land area.

In the brief, the appellant argued multiple bases for a land assessment reduction. The subject parcel suffers from excessive road noise because it is located only 2.5 blocks west of I-55. In addition, the subject is located on 135th Street, which appellant described as a busy street. Appellant reported through the use of a sound meter at the dwelling's front door during both morning and even rush hour times, a level of 65 decibels was recorded. Appellant further contended that the three comparables presented were located one mile or more from I-55 and from 1 ½ to 3 blocks from 135th Street. Therefore, appellant contended the comparables suffer no noise from either of these sources.

In terms of view, appellant argued that the comparables view quiet interior neighborhood streets whereas the subject front door faces traffic on 135th Street. Appellant also contended the subject parcel is ½ block north of an outdoor gun/shooting club and range; on a weekend at the subject front door, a sound meter registered 70 decibels. Appellant argued the comparables do not suffer these effects being further away from the gun range. Appellant also contended the subject parcel is one block west of an active stone quarry which does blasting two to three times a week which is loud and often shakes the dwelling. Again, appellant's three comparable properties are 3 to 5 blocks further away from the quarry and do not hear or feel the negative effects of the quarry. Appellant also argued the subject dwelling has a radon level found to be "at or above the DNS Action Guideline of 4.0 pCi/l" as shown in test report included which was dated September 15, 2006. Appellant argued the cost of eliminating the presence of radon in the dwelling should offset the assessment; appellant also reported that a radon mitigation system was estimated to cost \$2,000.

Based on the foregoing, the appellant requested a 20% decrease in the subject's land assessment or a reduction to \$40,888 or \$11.36 per square foot of land area.

As to the improvement inequity argument, the same three comparables were improved with two-story frame, brick or masonry dwellings that were 4 or 6 years old. The comparable dwellings range in size from 3,548 to 4,200 square feet of living area. Features include full finished basements, central air conditioning, a fireplace and a 700 square foot garage. The comparables have improvement assessments ranging from \$164,450 to \$193,990 or from \$45.42 to \$46.35 per square foot of living area. The subject's improvement assessment is \$211,530 or \$53.84 per square foot of living area.

In the brief, appellant noted the subject and comparable #1 were the same model dwelling. Appellant also noted that comparable #1 has a "premium home theatre system." As to comparable #2,

appellant contended this dwelling had upgraded premium marble throughout the main floor unlike the subject's ceramic tile floor. Each of these comparables was also said to have a double-sized deck as compared to the subject. Lastly, as shown in photographs, appellant contended the subject dwelling has a ¼ inch wide, 8 foot long crack in the west basement wall which occurred a year after purchase. There has been water seepage and, while the crack has been repaired, appellant notes it will have to be disclosed in any future sale. Appellant asserts that the three comparables presented do not have this defect.

Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$180,695 reflecting the average per-square-foot improvement assessment of the three comparables.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$262,640 was disclosed.¹ In support of the subject's assessment, the board of review presented a three-page letter from the township assessor along with an equity grid analysis of three suggested comparables.²

As to the appellant's improvement comparables, the township assessor noted that only comparable #1 was within the same neighborhood code assigned by the assessor as the subject. The assessor further contended that the photographs presented by the appellant confirm that comparables #2 and #3 were not similar to the subject dwelling. In addition, the assessor pointed out a home theatre system as described in comparable #1 is not assessed as part of the real estate since it is removable. Also, contrary to the appellant's grid analysis, the assessor's records indicate only the subject has a finished basement which has added \$35,525 to the value of the subject dwelling as compared to the unfinished basement comparables presented by the appellant.³

In addressing the appellant's argument regarding the crack in the subject's basement wall, the assessor notes this does not impact value for several reasons including that the crack has been repaired and the assessor does not adjust for repaired cracks that do not take on water again.

As to the appellant's land inequity argument, the assessor notes that I-55, the gun range and the quarry were all in existence at the time the appellant purchased the subject property. The

¹ The subject's assessment reflects an estimated market value of \$786,347 using Will County's 2007 three-year median level of assessments of 33.40%.

² The assessor purportedly prepared a corrected grid analysis of the three comparables presented by the appellant. Close examination of the grid reveals the properties itemized are not the ones which were presented by the appellant before the Property Tax Appeal Board.

³ Contrary to the assessor's assertions, the property record card for the subject reflects no basement finish.

assessor contends that appellant's comparables #2 and #3 are interior parcels are valued \$22,490 more than the subject reflecting their site further in the subdivision, further from I-55, the gun range and the quarry.⁴ As to the radon issue, the assessor asserted this is a regular maintenance issue and is not something affecting the assessment of a property.

The board of review's three comparable properties consist 3,600 square foot parcels, each of which like the subject, has a land assessment of \$51,110. The properties are located in the same neighborhood code assigned by the assessor, but the proximity of these properties to the subject was not disclosed. The subject was noted to be a preferred corner lot whereas the three comparables were "inside" lots. Each of the comparables is on the same street as the subject.

The three parcels have been improved with two-story frame dwellings that were two or three years old. The dwellings range in size from 3,620 to 3,980 square feet of living area. Features include full unfinished basements, central air conditioning, one or two fireplaces, and a three-car garage. These properties have improvement assessments ranging from \$185,970 to \$211,660 or from \$51.37 to \$54.89 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant presented a five-page brief along with supporting documentation. Appellant disputed the assessor's contention that similar properties are categorized for assessment purposes in different sub-neighborhoods in the subject's area. Appellant further asserted the appellant's comparables were closer in proximity and characteristics to the subject than the comparables presented by the assessor since the subject's street is a long, winding road of over 1 mile in length. In an attached map, appellant depicted board of review comparables #1 and #2 were close in proximity to the appellant's comparable #1; the map did not depict the location of board of review comparable #3. Appellant also noted that board of review comparables #1 and #2 were located in a cul-de-sac, a desirable location, as compared to the subject's location.

As to the land, appellant noted the assessor's contention that appellant's comparables #2 and #3, which were larger lots, were located on a larger and more desirable lake than the subject, which, according to appellant, would support a lower per-square-foot value for the subject land.

Appellant asserted that all six equity comparables presented in this matter are lakefront properties with dwellings that have finished walkout basements. In particular, board of review comparable #1 was said to be a model home with a finished

⁴ The assessor did not address the land assessment differences pointed to by the appellant based on per-square-foot lot size.

basement as depicted in sale flyers appellant provided in rebuttal. A flyer for board of review comparable #2 also described a "finished lake level . . ." and appellant submitted a color photograph of the 'finished basement' of board of review comparable #3. Furthermore to contradict the assessor's contention that each of the appellant's comparable dwellings had unfinished basements, appellant submitted color photographs identified as the basements of each of the appellant's comparables; each depicts a finished basement.

As to appellant's purported knowledge of the nearby gun range and quarry at the time of purchase, appellant asserts that the builder indicated each of these facilities was not active. Appellant further asserts this issue was raised at the local board of review hearing during which county officials suggested the appellant would have 'a good case against the builder.' Appellant then requested that the Property Tax Appeal Board 'get the tapes from the hearing as proof.'⁵ Based on the current circumstances, appellant contends that the subject property would have a lower market value due to the active quarry, active gun range, and proximity to I-55.

Appellant reiterates that he has supplied evidence of the existence of radon in the subject dwelling which he asserts lowers the value of a home. Likewise, appellant contends that he has provided evidence that the subject has a foundation wall crack that leaks and lowers the value of the dwelling; appellant further contends that cracks grow larger over time and start to leak again. Appellant further asserts that the home theatre system was a 'built-in' and could not be removed without damaging the dwelling; therefore, appellant contends built-ins such as this are considered part of the dwelling and increase the value.

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 Board further finds a reduction in the subject's assessment is not warranted.

The appellant contends unequal treatment in the subject's land and improvement assessments 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). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not met this burden.

⁵ The Board pursuant to its Rules will only consider the evidence, exhibits and briefs submitted to it and will not give any weight or consideration to any prior actions by a local board of review or to any submissions not timely filed or not specifically made a part of the record. (86 Ill. Admin. Code Sec. 1910.50(a)).

As to the land inequity argument, the parties presented six suggested equity comparables. Appellant presented two comparables located on a larger lake and which had parcels more than three times larger than the subject parcel. Based on the difference in lot size alone, the Board finds the most similar land comparables were appellant's comparable #1 and the board of review's comparables. Each of these comparables was 3,600 square feet in size and each parcel had a land assessment of \$51,110 like the subject. Based on this evidence, the Board finds that appellant has not established a lack of uniformity in the subject's land assessment.

As to the improvement inequity argument, the parties presented six comparable two-story frame dwelling for the Board's consideration. The Board finds the comparables submitted by both parties were similar to the subject in location, size, style, exterior construction, features and/or age. These comparables had improvement assessments that ranged from \$45.42 to \$54.89 per square foot of living area. The subject's improvement assessment of \$53.84 per square foot of living area is within this range. 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 appellant 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.

Appellant also argued that various issues external to the subject property make it less valuable than comparable properties, such as an active quarry, an active gun range, and proximity to I-55. Importantly, however, appellant provided no empirical data to indicate the property was over-valued based on the existence of any of these external issues and thus the Property Tax Appeal Board has given these arguments little merit. Appellant presented no evidence as to what effect the location of the subject property has upon its market value other than summary arguments.

Moreover, the only market value evidence on this record is the purchase price of the subject property which occurred just 14 months prior to the valuation date of January 1, 2007 that is at issue for \$785,000. The subject's 2007 assessment reflects an

estimated market value of \$786,347, which is not much greater than its recent purchase price. While the Board recognizes the appellant's premise that the subject's value may be affected due to its location and/or other factors like radon and a foundation crack, without credible market evidence showing the subject's assessment was inequitable or not reflective of market value, the appellant has failed to show the subject property's assessment should be reduced for those issues.

In conclusion, the Board finds the appellant has failed to prove unequal treatment in the assessment process by clear and convincing evidence. Thus, the Board finds that the subject's land and improvement assessments as established by the board of review are correct and no reductions are 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.

Ronald R. Guit

Chairman

Member

Mario M. Louie

Member

William R. Lerbis

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 24, 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.