FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Rockne & Mary Brosman
DOCKET NO.: 07-02107.001-R-1
PARCEL NO.: 06-20-400-029

The parties of record before the Property Tax Appeal Board are Rockne & Mary Brosman, the appellants, and the Henry 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 **Henry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$10,607
IMPR.:	$89,393
TOTAL:	$100,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 5.58-acres is improved with a part one-story and part two-story single-family dwelling of frame exterior construction which was built in 1995. The dwelling contains 2,462 square feet of living area.[1] Features include a full unfinished basement, central air conditioning, a fireplace, and an attached two-car garage. A detached garage of 1,036 square feet of building area built in 2006 which is reported to have ducted forced air heat and air conditioning. The property is located in Coal Valley, Colona Township, Henry County.

The appellant Rockne Brosman appeared on behalf of the appellants before the Property Tax Appeal Board contending unequal treatment in the assessment process as the basis of the appeal with regard to the improvement assessment; no dispute was raised concerning the land assessment.

[1] As discussed in this decision, there was substantial disagreement in the size of the dwelling.

The filings of the parties raised an issue concerning the size of the subject dwelling. The appellants in their Residential Appeal petition asserted the subject contained 2,455 square feet of living area. At hearing, appellant Rockne Brosman testified that he drew the dwelling size of 2,455 square feet from the building plans which he followed in constructing the dwelling; copies of those plans were not submitted either as part of the initial appeal or in rebuttal to the evidence submitted by the board of review.

As to the dwelling size, the board of review contended the subject dwelling contained 2,798 square feet of living area. At hearing, the board asserted this was based on the measurements taken on more than one occasion by the assessor and reported on the property record card for the subject. The board of review did not present the township assessor or any witness who determined the size of the subject dwelling to support the board's contention. The board of review also submitted a copy of the decision of the Property Tax Appeal Board issued on this property as Docket No. 00-00259.001-R-1. Said decision found the subject dwelling as of January 1, 2000 contained 2,462 square feet of living area.

In rebuttal as to the dwelling size, the appellant Brosman testified there is a two-story foyer at the entrance to the dwelling. Appellant contended that, perhaps based on exterior measurements, this second-story foyer area has been incorrectly deemed to be part of the living area square footage.[2]

Lastly at hearing regarding the dwelling size issue, all parties agreed that there have been no additions to the dwelling since the 2000 assessment year when the Property Tax Appeal Board made a finding that the dwelling contained 2,462 square feet of living area.

On the dwelling size issue, the Property Tax Appeal Board finds, on this limited record and in the absence of any substantive evidence to make a different determination, that the best evidence of the subject's dwelling size is contained in the prior decision of the Board. The difference of seven square feet between the appellants' claimed size and the Board's finding is de minimus.

In support of the inequity argument, the appellants submitted a multi-page grid analysis of twelve suggested comparable properties located from adjacent to three miles from the subject. The parcels, some of which were referenced as a homesite, range in size from 1 to 14-acres in size.[3] The improvements were

[2] The parties agreed to further work toward investigating this issue to correct the county records on the subject property as necessary. Appellant also noted the basement has eight foot ceilings, not nine foot as purportedly recorded for the dwelling.

[3] What may be farmland acreage went up to 80.28-acres.

described as eight, one-story; two, one and one-half-story; and two, two-story dwellings of frame, brick or brick and frame exterior construction. The comparables ranged in age from 2 to 20 years old and ranged in size from 1,472 to 4,874 square feet of living area.[4] One comparable had a crawl-space foundation and eleven comparables had full or partial basements, six of which were believed to have finished area.[5] Each of the comparables had central air conditioning; four comparables were reported to have fireplaces, another one may have a fireplace,[6] and five comparables "probably" have a fireplace. Four comparables have at least one shed and one comparable has a 640 square foot inground pool. These twelve comparables had improvement assessments ranging from $49,449 to $107,042 or from $21.96 to $38.61 per square foot of living area.[7] The subject improvement was assessed at $89,393 or $36.31 per square foot of living area based on 2,462 square feet of living area.

Appellant Rockne Brosman at hearing also argued that a one year assessment increase of 60% from 2006 to 2007 was unfair. In support of this contention, appellants presented a colored graph depicting the total assessments of the subject and appellants' twelve comparables for the period 2002 through 2007.[8] From this data, appellants contend that only the subject suffered a dramatic increase in assessed value when compared to all twelve comparables.

On the basis of this evidence, the appellants requested an assessment reduction for the subject improvement to $53,217 or $21.62 per square foot living area.

On cross-examination, appellant testified that the subject property was not on the market in 2007. After having his relevancy objection overruled, appellant Brosman testified that as of May 2010 the subject property is listed for sale for $319,000 and this listing price was a reduction from a previous listing price of $419,000.

---

[4] The board of review reiterated the appellants' twelve comparables in a grid analysis and reported slight variations in size from that reported by the appellants for several comparables, except for appellants' comparable #7 for which the board of review reported a size of 5,234 square feet of living area which is 360 square feet larger than was reported by the appellants.

[5] The data varies from reporting the square feet of finished basement area to "unknown" finished basement area.

[6] The notation in the grid was "WB?" which presumably was a reference to a wood burning fireplace.

[7] Based on the difference in size of appellants' comparable #7, the board of review reports a range of $20.45 to $38.61 per square foot of living area for the appellants' comparables.

[8] While the graph indicates the date range is 2002 through 2008, the Board finds there is an error in the year range; the instant appeal concerns 2007 for which the subject had a total assessment of $100,000 from its prior total assessment of $63,824.

In rebuttal to this market value evidence elicited in cross-examination, appellant Brosman testified that his comparable #1, with a 2007 assessment reflective of a market value of approximately $237,321, has been listed for sale in 2008 for $425,000. From this data appellant Brosman contended this property is substantially under-assessed.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $100,000 was disclosed. In addition, the board of review presented a grid analysis of the appellants' comparables with attached property record cards. No specific errors or omissions were noted by the board of review with regard to the appellants' submission, however, as discussed previously there are slight variations in some size data. The Board of review also presented a two-page grid analysis of eight equity comparables, applicable property record cards, along with other data.

For purposes of the 2007 assessment of the subject property, at hearing the board of review representative first pointed out that the subject property had been granted a reduction by the Property Tax Appeal Board for assessment year 2000 (decision included in board's evidence). For purposes of that appeal, appellant Rockne Brosman claimed both inequity and overvaluation based on a slop failure or landslide at the subject property. After that hearing, the parties discussed and reported an agreement to the Property Tax Appeal Board that the subject's improvement assessment would be reduced by 25% over a four-year period. The final decision of the Property Tax Appeal Board adopted the agreement of the parties and reduced the 2000 assessment of the subject. Moreover, the board of review representative further argued that historically, since that decision, the subject's assessment has increased only by the township equalization factor, if any, for years 2002 through 2006 (see chart enclosed in materials).

For the 2007 assessment, the start of a new general assessment cycle, the assessor and board of review determined to reassess the subject property to more accurately reflect its fair market value since the repair of the landslide appeared to be complete. Moreover, the board of review argued that the appellant constructed a new large detached garage which indicated to the board that the property was suitable for further new investment/improvement by the owner. As a final point for reassessment in the quadrennial year, the board of review included a computer printout of a Multiple Listing Service sheet indicating the subject property was listed for sale and was "broker owned" as the appellant does have a real estate license; the presentation of the property for sale also suggested to the assessing officials that the property was repaired. Thus, based on these facts, the assessing officials determined to reassess the subject property to reflect the statutory level of assessment of 33.33% and remove the reduced valuation caused by the previous landslide that was now repaired and apparently stable.

As to the inequity argument, the board of review presented a two-page grid analysis of eight comparable properties whose proximity to the subject property was not disclosed, despite a row on the grid for such data. The comparables were described as three, one-story; two, part one-story and part one-and-one-half-story; two, part one-story and part two-story; and one, two-story dwelling of frame exterior construction. The dwellings ranged in age from 1 to 24 years old and contained from 1,725 to 3,081 square feet of living area. Each comparable had a basement, three of which had finished area, central air conditioning, one or two fireplaces, and an attached garage ranging in size from 600 to 1,088 square feet of building area. The properties had improvement assessments ranging from $61,283 to $101,154 or from $30.63 to $42.88 per square foot of living area. The subject has an assessment of $36.31 per square foot of living area and thus, based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal and at hearing, the appellant argued that the board of review's data in response to appeal provided 2009 assessment data. The testimony, however, indicated that while the current print-out of property record cards by Henry County will reflect only the latest assessment data (i.e., as of date printed in 2009), the data in the grid analysis of comparables submitted by the board of review reflected 2007 assessments of those properties. As to the listing of the property for sale, appellant testified that all disclosures required by law will be made prior to conclusion of any sale; merely listing the property for sale does not mean that there are no matters to be disclosed. Appellant further noted in rebuttal that no data from the board of review addressed the percentage increase in assessment from one year to the next suffered by the subject. Lastly, appellant wrote "the assessment records still do not indicate the actual size of the dwelling."

In closing argument, appellant argued that, while 2007 was the start of the quadrennial re-assessment cycle, none of the comparable properties saw a 60% one-year increase in assessment like the subject did. Additionally, even removing the increase, given the current market, the appellant questioned whether removal of the increase alone would correctly reflect market value.

In closing the board of review representative reiterated that the subject property's increase was not reflective of a one-year increase, but was due to an atypical situation where a temporary diminution in valuation due to a landslide was no longer justified and the property was reassessed to reflect market value.

After hearing the testimony and considering the record, 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 appellants contend unequal treatment in the subject's improvement assessment 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 appellants have not met this burden.

First, the appellants attempted to demonstrate the subject's assessment was inequitable because of the percentage increase in its assessment from 2006 to 2007. 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 on a percentage basis 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. In fact, 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 and percentage rates depending on prevailing market conditions and prior year's assessments. More importantly, as to the subject property, the Board finds that due to a problem on the property beyond the control of the owners, the value of the property was agreed to be reduced for a four year period to account for the land problem. Moreover, the agreement was extended by the assessing officials for two additional years, but as of the 2007 quadrennial assessment cycle, the assessing officials found evidence suggesting that the land problem had been remedied and the assessment should be brought into line for market value purposes like similarly situated properties. Thus, the Board finds no merit to the appellants' assertion that the 60% increase in the subject's assessment from 2006 to 2007 establishes inequity of assessments.

Next, the parties submitted a total of twenty equity comparables to support their respective positions before the Property Tax Appeal Board. The Board has given less weight to appellants' comparables #2, #5, #6, #7 and #12 due to differences in living area square footage from the subject dwelling. The Board has also given less weight to board of review comparables #1, #4 and #8 due to differences in dwelling size. The Board finds the remaining twelve comparables submitted by both parties were most similar to the subject in location, size, style, exterior construction, features and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments

that ranged from $26.97 to $42.88 per square foot of living area. The subject's improvement assessment of $36.31 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 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: August 20, 2010

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.