



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

APPELLANT: Stephen & Sharon Golan
DOCKET NO.: 07-02212.001-R-2
PARCEL NO.: 16-04-102-006

The parties of record before the Property Tax Appeal Board are Stephen & Sharon Golan, the appellants, by attorney Stephen Golan, of Golan & Christie LLP in Chicago, and the Lake 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 Lake County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$347,757
IMPR.: \$493,595
TOTAL: \$841,352

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property of 4.17-acres has been improved with a two-story brick single-family dwelling containing 5,807 square feet of living area. The dwelling was constructed in 1965 and features a full unfinished basement of 2,910 square feet, central air conditioning, two fireplaces, a two-car garage of 575 square feet of building area, an in-ground pool, and a 540 square foot patio. The property is located in Lake Forest, West Deerfield Township, Lake County.

The appellants appeared before the Property Tax Appeal Board through counsel Liat R. Meisler arguing both lack of uniformity as to the improvement assessment and that the fair market value of the subject property was not accurately reflected in its assessed value. In support of the inequity argument, the appellants presented a grid analysis of three suggested comparables; in support of the overvaluation argument, the appellants presented an appraisal.

In support of the inequity argument, the appellants submitted assessment data and descriptions in a grid analysis on three suggested comparable properties located in close proximity to the subject (Appellants' Ex. 1). The comparable dwellings were described as 1.75 or 2-story dwellings which ranged in age from 5 to 48 years old. The appellants reported that with finished basement areas included the dwellings contain from 3,463 to 9,290 square feet of both above ground and below ground living areas. Based on included property characteristic sheets from the Lake County Assessor's website, the comparables range in size from 2,665 to 8,107 square feet of above-ground living area. Features of the dwellings include basements, two of which were finished, ranging in size from 1,064 to 3,369 square feet of building area; from one to six fireplaces; and garages ranging in size from 529 to 1,063 square feet of building area. These comparable properties had improvement assessments ranging from \$241,974 to \$713,421 or from \$69.82 to \$108.18 per square foot of above ground living area. The subject had an improvement assessment of \$493,595 or \$85.00 per square foot of above-ground living area.

In support of the overvaluation argument, the appellants submitted an appraisal report prepared by Tim Burns of Freese & Associates with a valuation date of December 14, 2006.

At the hearing, the board of review objected to consideration of the appraisal since the appraiser was not present to provide testimony and/or be cross-examined with regard to the report. In response to the objection, appellants' counsel conceded that the absence of the appraiser for testimony may impact the weight to be given to the appraisal, but contended that the appraisal should not be stricken from the record. At hearing, ruling on the objection was reserved by the Hearing Officer.

The Property Tax Appeal Board sustains the objection of the board of review to the appellants' appraisal report. 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 (1st 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 (2nd Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1st 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 \$1,875,000 as of December 2006 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 located either 1 or 3-miles from the subject property. It is further noted that the appraiser described the subject parcel as 4.24-acres and the dwelling as containing 5,750 square feet of living area with a 98% finished basement of 2,099 square feet of building area. The comparables were described as parcels ranging in size from 1.25 to 2.60-acres. Each parcel was improved with either a one-story or a two-story dwelling of brick, brick and cedar, or brick and frame exterior construction ranging in age from 7 to 50 years old. The comparables range in size from 5,145 to 5,897 square feet of living area. Two comparables have full finished basements with a bathroom, one of which was also a walkout style. Each comparable features central air conditioning and three or four fireplaces; the comparables have three or four-car garages. Each comparable has a patio and one comparable has a pool like the subject. The comparables sold in January or August 2006 for prices ranging from \$1,730,000 to \$1,863,750 or from \$301.00 to \$336.25 per square foot of living area, land included.

Legal counsel for appellants took an oath at the hearing as a witness.¹ Attorney Meisler testified that 40% or approximately 2-acres of the subject parcel is located in a floodplain due to its location along the Skokie River. (TR. 9-11 & Appellants' Ex. 1). To further support the location of the subject property and without objection from the board of review, counsel presented a parcel map at the hearing² depicting the subject in relation to the river along with the location of the appellants' equity comparables and the board of review's equity comparables. Meisler as counsel further testified that according to a conversation with her client, the appraiser made an error in reporting that the subject's basement was 98% finished as the basement actually was unfinished.

On the basis of the foregoing evidence, the appellants requested a total assessment for the subject property of \$624,937 or an estimated market value of approximately \$1,874,811 or \$322.85 per square foot of living area, land included.

On cross-examination by the board of review, Meisler reiterated that approximately 2-acres of the subject parcel are in a floodplain; Meisler was not contending that the Skokie River has

¹ "An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. . . . Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client." 86 Ill. Admin. Code, Sec. 1910.70(f).

² See 86 Ill. Admin. Code Sec. 1910.67(k) in that new evidence should not be accepted into the appeal record at hearing.

a negative impact on the market value of the subject property. (TR. 14)

On questioning by the Hearing Officer, Meisler acknowledged that she had not examined any floodplain maps related to the subject property and, without any personal appraisal expertise, Meisler had no information as to the impact floodplain status could have on the subject property's fair market value. (TR. 17-18)

The Board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$841,352 was disclosed. Based on the assessment, the subject property has an estimated market value of \$2,536,485 or \$436.80 per square foot of living area, land included, based on the 2007 three-year median level of assessments in Lake County of 33.17%.

In support of the subject's assessment on both grounds of uniformity and market value, the board of review presented a grid analysis of three suggested equity comparables, a grid reiterating and/or correcting the appellants' equity and appraisal comparables, and an appraisal of the subject property.

As to the equity argument, the board of review's grid analysis consisted of three comparables, two of which were located on the same street as the subject property. The comparables were described as two-story frame or frame and masonry dwellings that range in age from 33 to 49 years old. The comparables contain from 5,005 to 5,620 square feet of living area and feature basements, two of which included finished area, central air conditioning, one or two fireplaces, and garages with one comparable having two separate garages. The comparables have improvement assessments ranging from \$429,163 to \$504,376 or from \$85.75 to \$90.92 per square foot of living area.

In conjunction with the submission of evidence, including an exterior appraisal of the subject property, the board of review reported that an inspection of the subject property for the purposes of preparing an appraisal was requested through appellants' counsel once by phone and once by letter. Having not received a response to the written request that was sent by certified mail, the board of review moved to invoke Section 1910.94(a) of the Official Rules of the Property Tax Appeal Board. At hearing, the Hearing Officer sought an understanding of what matters the board of review was requesting not be considered in accordance with the Rule. The board of review representative argued that the inability to inspect the property in conjunction with the appraisal should not be held against the board "if there is any discrepancy with respect to property characteristics." (TR. 6)

The board of review presented an appraisal report prepared by Robert D. Erickson of R.D. Erickson Appraisal Company along with his testimony at hearing. Erickson testified that he has over 22 years of residential appraisal experience and holds an Illinois Certified Residential Appraisal license. The purpose of the

appraisal was to estimate the market value of the subject property for tax appeal purposes.

The appraiser testified that he utilized Multiple Listing Service data and tax assessor records to research area comparables along with an exterior view of the subject property. The appraiser reported the subject property as having 4.17-acres with a dwelling of 5,807 square feet of living area and a full unfinished basement. The appraisal report utilized the sales comparison approach to value and sets forth three comparable properties located from .2 to 2.1-miles from the subject property with sales comparable #3 located west of Route 41. The comparables were described as one, one and one-half and two, two-story single family dwellings of frame, stucco or brick exterior construction ranging in size from 2,974 to 5,472 square feet of living area and ranging in age from 18 to 76 years old. Two comparables have basements, one of which included finished area with a bathroom; two comparables had central air conditioning and two comparables have two and three fireplaces, respectively. None of the comparables had a pool; one comparable had a patio. The comparables sold between January 2006 and November 2007 for prices ranging from \$2,600,000 to \$2,780,000 or from \$485.20 to \$934.77 per square foot of living area, land included.

The appraiser made various adjustments for land area, age, room count, dwelling size, central air conditioning, garage size, foundation and basement finish, exterior construction, and amenity differences such as fireplaces, patios and pools. After adjustments, the appraiser concluded the comparables had adjusted sales prices ranging from \$2,679,000 to \$3,058,000 or from \$489.58 to \$1,028.24 per square foot of living area. After noting that sales comparables #1 and #2 were in close proximity to the subject and comparable #3 was similar in living area square footage, Erickson concluded that a value estimate in the middle of the range was indicated and he thus opined a market value for the subject of \$2,850,000 or \$490.79 per square foot of living area as of January 1, 2007.

Erickson testified that, as noted in the report, the subject property is in flood zone X which does not require flood insurance; Erickson acknowledges that a portion of the property near the Skokie River is in the flood zone, but the property improvements are not in a flood zone.

On questioning by the Hearing Officer, Erickson explained various adjustments that were made to the sales comparables, including the reasons for adjusting for an 18 year old dwelling and not adjusting for a 76 year old dwelling. (TR. 30-32)

In response to the appellants' equity data, the board of review reported the above-ground living areas of the three comparables presented and also re-calculated the improvement assessment per square foot based on this new square footage figure. The board also reported the exterior construction of the appellants' comparables as one brick and two frame constructed dwellings.

Two of the comparables also are reported to have central air conditioning. Lastly, the board of review noted that appellants' comparable #3 was substantially larger than the subject dwelling and based on the theory of economies of scale, it was not unexpected that comparable #3 would have a lower per-square-foot improvement assessment than smaller dwellings.

In response to the appellants' appraisal, the board of review noted in a map the distance of the sales comparables from the subject property and argued that the properties were not located in similar market areas in that all three sales comparables were west of Route 41. At hearing, Erickson testified that location in relationship to Route 41 is relevant to land values in that properties closer to Lake Michigan along the North Shore are more valuable. Erickson opined the subject property was in the middle tier of land values west of Green Bay and Sheridan Roads, but east of Route 41. The board of review also asserted that sale comparable #1 from the appellants' appraisal was a one-story dwelling and lacked a basement feature making the property dissimilar to the subject. In addition, the board of review analyzed the sales comparables from the appellants' appraisal in a grid which depicted slight differences in various features. Most significantly, appellants' appraiser reported sale #1 located in Shields Township sold in August 2006 for \$1,730,000 whereas the same property according to the board of review sold again in June 2008 for \$1,290,000.

Based on its evidence, the board of review at a minimum requested that the subject's assessment be confirmed on grounds of equity and market value; the board of review left it "to the discretion of the Property Tax Appeal Board" whether an increase in the subject's assessment was warranted.

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 Board further finds based on the evidence presented that no reduction in the subject's assessment is warranted.

As a preliminary matter, the board of review's motion to invoke Section 1910.94(a) of the Official Rules of the Property Tax Appeal Board (86 Ill. Admin. Code Sec. 1910.94(a)) is hereby denied by the Property Tax Appeal Board. Section 1910.94 of the Rules states:

No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by the opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the Board of review or a taxing body, during the time when

the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes.

(86 Ill. Admin. Code Sec. 1910.94(a)).

The Board finds that there has been no evidence offered by the appellants prior to or at the hearing to refute, discredit or disprove evidence offered by the board of review in this matter. The record reveals three apparent differences in descriptions and/or physical characteristics between the appellants' evidence and the board of review's evidence: 1) dwelling size, 2) parcel size, and 3) basement finish. The dwelling size difference was minimal and the best evidence of size was presented in the board of review's evidence from the property record card with a footprint schematic of the dwelling. Likewise, the parcel size varied between the parties, but again the Board finds that the property record card for the subject property reflecting 3.0-acres of residential land and 1.17-acres of "undevelopable" land for a total parcel size of 4.17-acres is the best evidence of parcel size. Lastly, as reflected by the hearsay "testimony"³ of appellants' counsel and the property record card, both parties contend the subject dwelling has an unfinished basement despite the report of the appellants' appraiser.

As to the inequity argument, 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 assessment data, the Board finds that the appellants have failed to overcome this burden.

As to the lack of uniformity contention, the parties presented a total of six comparables for the Board's consideration which were located in close proximity to the subject (see appellants' Exhibit 1). Based on differences in age, the Board has given less weight to appellants' comparable #1 and based on differences in above-ground living area square footage, the Board has given less weight to appellants' comparables #2 and #3. The Board finds that the comparables presented by the board of review were the most similar to the subject on this record and have been given the most weight in the Board's analysis. The comparables have improvement assessments ranging from \$429,163 to \$504,376 or from \$85.75 to \$90.92. The subject's improvement assessment of \$85.00 per square foot of living area is below the range of the most similar comparables on this record. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's

³ See Section 1910.70(f) of the Official Rules of the Property Tax Appeal Board. 86 Ill. Admin. Code, Sec. 1910.70(f).

improvement assessment is equitable and a reduction in the subject's assessment is not warranted on grounds of lack of uniformity.

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 parties 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.

The appellants also contend the assessment of the subject property is excessive and not reflective of its market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the evidence in the record does not support a reduction in the subject's assessment.

The appellants submitted three comparable sales through their appraisal for the Board's consideration and the board of review presented an appraisal with three comparable sales. The Property Tax Appeal Board has given less weight to appellants' comparable sale #1 due to its one-story design as compared to the subject's 2-story style. The Board has also given less weight to appellants' sale comparable #3 due to its newer age at 7 years old compared to the subject at 42 years old. The Property Tax Appeal Board also finds that the board of review's appraiser's use of sale comparable #3 detracts from the reliability of the opinion of value given the appraiser's testimony that properties to the west of Route 41 are in a different market area than the subject. Based on the foregoing analysis, the Property Tax Appeal Board finds the most similar sales comparables on this record are appellants' sale comparable #2 and board of review's sales comparables #1 and #2. These comparables sold between August 2006 and November 2007 for prices ranging from \$1,775,000 to \$2,780,000 or from \$301.00 to \$934.77 per square foot of living area, land included. The subject's estimated market value based on its assessment of \$2,536,485 or \$436.80 per square foot of living area, land included, based on the three-year median level of assessments is within the range of the most similar sales comparables on this record.

In addition, the Property Tax Appeal Board finds no increase in the subject's assessment is warranted based on the appraisal presented by the board of review. The subject property's estimated market value as reflected in the appraisal prepared by

Erickson was \$2,850,000 or \$490.79 per square foot of living area, land included. In the reconciliation, Erickson wrote that "a value estimate in the middle of the range is indicated." The Board finds that the final value conclusion of \$490.79 per square foot of living area, land included, is barely within the range of the adjusted sales prices of the comparables which ranged from \$489.58 to \$1,028.24 per square foot of living area, land included. Therefore, the appraisal's estimated market value has not been sufficiently supported in light of the adjusted sales comparables and no increase in the subject's assessment is warranted on this record.

In conclusion, the Board finds the appellants have failed to prove unequal treatment in the assessment process by clear and convincing evidence or overvaluation by a preponderance of the evidence. Therefore, the 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn R. Lerski

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 23, 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.