



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

APPELLANT: Glen S. Pekofsky  
DOCKET NO.: 07-02421.001-R-1  
PARCEL NO.: 16-28-301-001

The parties of record before the Property Tax Appeal Board are Glen S. Pekofsky, the appellant, and the Lake County Board of Review.

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 Lake County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$62,281  
**IMPR:** \$297,719  
**TOTAL:** \$360,000

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject parcel of 10,650 square feet of land area is improved with a 3-year-old, two-story single-family dwelling of brick and frame exterior construction. The home contains 4,674 square feet of living area<sup>1</sup> and features include a full unfinished basement, central air conditioning, a fireplace and a 748 square foot garage. The property is located in Deerfield, West Deerfield Township, Lake County.

The decision on this matter was originally rendered by the Property Tax Appeal Board on September 24, 2010 finding no change in the assessment was warranted on the evidence presented. The decision was challenged by the appellant upon administrative review. On October 27, 2011, the Circuit Court of the Nineteenth Judicial Circuit, Lake County, issued an Order Ruling on Plaintiffs' [*sic*] Motion For Reconsideration remanding this appeal to the Property Tax Appeal Board for further hearing

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<sup>1</sup> The parties agree that the subject has a vaulted foyer which area was included by the previous township assessor within the "living area square footage" based purely upon exterior measurements. The appellant's appraiser found the home contains 4,494 square feet of living area.

applying the rule stated in DuPage County Board of Review v. Property Tax Appeal Board, 284 Ill.App.3d 649 (2<sup>nd</sup> Dist. 1996).

In accordance with said Order of the circuit court, the Property Tax Appeal Board reconvened a hearing on this matter on August 21, 2012 at which the appellant appeared before the Property Tax Appeal Board claiming overvaluation and an inequitable assessment based upon sales ratio data. The appellant was present with his appraiser Kenneth M. Jones and the board of review appeared via its representative.

As part of the appeal petition, the appellant reported that the subject property was purchased in October 2004 for \$1,126,000. As depicted on the Notice of Findings by the Lake County Board of Review, the subject property has a total 2007 assessment of \$392,855 which reflects a market value of approximately \$1,178,565.

With the appeal, the appellant presented a letter outlining the four criteria he contends should be considered in the valuation of the subject property. First, the appellant contends that the subject is 'legal nonconforming' in that the property is zoned R-3 and as a consequence of a subsequent change in the zoning ordinance after construction, any replacement/rebuilding of the subject dwelling would be limited to a home of 4,260 square feet or less which is smaller than the current dwelling. A copy of the zoning ordinance was submitted. Second, the appellant noted that the subject includes a drainage easement (a Village of Deerfield storm water inlet) resulting in a saturated and muddy backyard due to area runoff. A copy of the Grant of Easement, parcel map and eight color photographs were supplied. Third, the subject "backs to rental units and a parking lot, with a clear view of a major thoroughfare (Waukegan Road), traffic, traffic lights and the Metra." To support this assertion, the appellant included photographic evidence.<sup>2</sup>

Fourth, and most significantly as argued at the reconvened hearing, the appellant contends there is a significant disparity between the subject property and comparable properties with regard to the ratio of market value based upon the assessment(s) and recent sales data. To support this latter contention, the appellant submitted an appraisal of the subject property to establish that the subject's estimated market value based upon its assessment was "significantly closer to the actual market value of this property [as depicted by the appraisal] when compared to the same ratio for thirty-one (31) recently sold properties."

The appraisal of the subject property submitted by the appellant has an effective date of January 1, 2007. In its responsive evidence, the Lake County Board of Review wrote that it "believes

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<sup>2</sup> The appellant's appraiser remarked that there was external depreciation due both to a drainage easement and "the view of apartments and not single family homes."

that the appraiser's final opinion of value to be reasonable." (See page two of letter dated May 26, 2009). Given the statement of the board of review regarding the appraiser's conclusion of value, the appellant did not call appraiser Kenneth M. Jones as a witness in his case-in-chief, but indicated the appraiser was available at the hearing for examination by the board of review if they desired to make any inquiries.

The appellant's appraiser employed both the cost and sales comparison approaches to value in the report. Under the cost approach, the appraiser estimated the subject's lot value at \$500,000 and estimated the subject improvements to have a cost new of \$769,000. Depreciation of \$51,548 for both physical and external obsolescence was deducted leaving a depreciated value of improvements of \$717,452. After adding back the land value plus an additional \$10,000 for site improvements, the appraiser estimated a market value for the subject by the cost approach of \$1,227,500.

In the sales comparison approach, the appraiser examined three comparable properties located 0.71 to 1.16 miles from the subject. The comparables consist of lots ranging in size from 12,196 to 18,000 square feet which are improved with two-story dwellings of masonry, masonry and frame or masonry and dryvit exterior construction. The comparables range in age from new to 14 years old and range in size from 4,561 to 4,706 square feet of living area. Features include full basements, one of which is a walkout style and all of which are finished, central air conditioning, one or two fireplaces and two-car or three-car garages. The comparables sold in August or December 2006 for prices ranging from \$1,250,000 to \$1,300,000 or from \$265.28 to \$285.03 per square foot of living area including land. The appraiser adjusted the comparables for differences when compared to the subject, such as age, living area, basement finish, garage size, patios or fences and drainage easements. After adjustments, the comparables had adjusted sales prices ranging from \$1,178,500 to \$1,232,300 or from \$250.11 to \$270.18 per square foot of living area including land. Based on this analysis, the appraiser estimated the subject's market value by the sales comparison approach at \$1,200,000.

In his comments section, the appraiser noted the subject has a drainage easement and that during periods of heavy rain, "the (rear) yard is not usable due to standing water filling the drain". The appraiser acknowledged an adjustment for this factor was appropriate. Finally, the appraiser indicated he gave total consideration to the sales comparison approach in his market value estimate.

To further support the overvaluation argument based on inequity among assessments, the appellant presented a sales ratio analysis of 31 properties located in two assessment neighborhoods along with data sheets on those comparables from the Lake County Board of Review's website. The appellant testified to the manner in which these 31 properties were selected from an original pool of

all area sales within the boundaries of the elementary school district. The original listing was first culled down based upon similar construction materials, similar construction date, similar dwelling size and similar lot size/dimensions. Any properties that were not "new construction" were removed for purposes of this analysis. Once the original pool of sales was culled down based upon these criteria, the appellant used an Excel random number generator to arrive at the 31 properties presented in this appeal. The reason for selecting 31 properties was the data in spreadsheet form would fit on one piece of paper.

Each spreadsheet depicts the comparables' street addresses, neighborhood code, total assessment, market value per assessor, sale date, sale price, spread between sale amount and market value and percentage of spread to sale amounts. Based on the underlying data sheets, the comparables were built between 2002 and 2005. The homes range in size from 2,836 to 5,176 square feet of living area. Each has a basement of which nine include finished area, and each has a garage ranging in size from 400 to 822 square feet of building area. The properties sold between June 2004 and October 2007 for prices ranging from \$895,000 to \$1,725,941.

These sale properties were arrayed on four individual spreadsheets: "all data" reflecting all 31 properties; "3 lowest and 3 highest removed"<sup>3</sup> resulting in an average spread percentage of 14.78% for these remaining 25 properties<sup>4</sup>; "04, 1<sup>st</sup> Half 05, and 07 [sales] Removed"<sup>5</sup> resulted in an average spread percentage of 16.36% for these 25 properties; and "2% Apprec, Sales by 1-1-07" wherein the appellant applied a modest appreciation of 2% annually to all of the sales that occurred prior to January 1, 2007, the appellant reports the average spread percentage for these 'appreciated' properties was 17.40%. On the "all data" spreadsheet, the appellant depicted that the 31 sales had a percentage of spread ranging from 7.95% to 28.63%, whereas the subject's spread was 1.79% based on its appraised value of \$1,200,000 as compared to the subject's estimated market value based on its assessment of \$1,178,565. Based on this analysis, the appellant claimed the disparities demonstrated in his analysis indicate widespread assessment inequity in the subject's neighborhood.

Based on this evidence on the Residential Appeal petition, the appellant requested a total assessment reduction to \$331,080. However, in his letter outlining the arguments and at hearing, the appellant requested an assessment reduction to \$333,735 which would reflect a market value of approximately \$1,001,205 or about 14.78% less than the subject's appraised value which was the lowest average percentage among his spreadsheet analyses.

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<sup>3</sup> The appellant removed the three highest and the three lowest assuming they might be deemed to be outliers and thus 25 properties remained for analysis.

<sup>4</sup> The estimated market values of these 25 properties based on their assessments were, on average, 14.78% lower than their actual sales prices.

<sup>5</sup> The data was narrowed from the 31 properties to those sales that occurred between July 2005 and November 2006.

On cross-examination, the appellant confirmed that he presented sales from a three year period, including sales in 2004. His reason for including sales as early as 2004 was to "be fair" because the sales at least as of 2007 indicated a downward trend in the marketplace and a selection of sales over a three-year-period might be more reflective of a trend, if any, in the sales as compared to the assessed values and not just an anomaly because of falling sales prices. The appellant was asked how he accounted for the difference in time between a 2004 sale price and a 2007 assessed value at which point reference was made to the "2% Apprec, Sales by 1-1-07" spreadsheet presented by the appellant. Upon further questioning, however, the appellant was unable to articulate his basis for applying a 2% annual appreciation to the older sales prices in that spreadsheet. Also, since he utilized a random number generator from Excel, the appellant was unable to explain why the three comparable sales presented by the board of review were not among the 31 properties the appellant presented to support his appeal.

The board of review also inquired of the appellant's appraiser, Kenneth M. Jones, if he would deem a 2% annual appreciation for sales from 2004, 2005 and 2006 to be a conservative estimate in area market values to which he testified it would be conservative; furthermore, Jones volunteered giving due consideration to variances that may occur from area to area the appreciation may have been closer to 5% per year at that time.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$392,855 was disclosed. The subject has an estimated market value of \$1,184,368 or \$253.39 per square foot of living area including land as reflected by its assessment and the 2007 Lake County three-year median level of assessments of 33.17%. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review also submitted a three-page letter, property record cards and a grid analysis of six comparable properties located in the same assessor's assigned neighborhood code as the subject. In its submission, the board of review contended that its equity comparables support that the "practical uniformity" requirement discussed in Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960), has been satisfied.

Three of the six comparables presented by the board of review reflected recent sales data. In light of the appellant's argument, the Property Tax Appeal Board finds that only analysis of this sales data along with the respective assessments of these sold properties is necessary. The three comparables had lots ranging in size from 8,100 to 9,768 square feet of land area and were improved with two-story brick or brick and frame exterior constructed dwellings that were built in 2003 or 2004. These three homes range in size from 4,073 to 4,947 square feet of living area. Features include unfinished basements, central air conditioning, a fireplace and garages ranging in size from 484 to

675 square feet of building area. These comparables sold between April and August 2007 for prices ranging from \$1,082,500 to \$1,320,000 or from \$256.67 to \$266.83 per square foot of living area including land.

With regard to the appellant's sales ratio analysis, upon which he based his inequity argument, the board of review contends Property Tax Appeal Board has "ruled that this type of limited sales ratio analyses [sic] to be flawed. The acceptable sales ratio analysis must contain all the arms-length data from the entire county in determining the countywide three year median level of assessment." Based on this evidence, the board of review requested confirmation of the subject's assessment.

On cross-examination, the board of review's representative acknowledged that the Lake County Board of Review and/or the township assessor did not perform an analysis specifically designed to determine if there was proportionality between estimated market values as reflected by assessments and recent sales prices.

In written rebuttal, the appellant analyzed the three comparable sales presented by the board of review and reported the respective relationships of their sales prices to their 2007 estimated market values as reflected by their assessments. The appellant reported that these properties had a percentage spread ranging from 6.36% to 9.20% less than their recent sales prices.

After hearing the testimony on remand and considering the record evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. Moreover, the Property Tax Appeal Board further finds a reduction in the subject property's assessment is warranted.

The appellant contends both overvaluation and lack of assessment uniformity as the bases of the appeal. When market value is the basis of the appeal, the value 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 (3<sup>rd</sup> Dist. 2002). 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 appellant argued that the subject property was being assessed at a higher percentage of its fair cash value than other properties that sold for similar prices. After analyzing the evidence submitted, the Board finds the appellant met the required burden.

The subject had an appraisal as of January 1, 2007 estimating its market value as \$1,200,000. The board of review did not dispute the reasonableness of that value conclusion in the appraisal. As the subject has a total 2007 assessment of \$392,855, the subject has a resulting assessment to estimated market value ratio based upon the appraisal of 32.74%.

Except in counties with more than 200,000 inhabitants which classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he 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 Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner 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).

The Illinois property tax scheme is grounded in article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes "shall be levied uniformly by valuation as ascertained as the General Assembly shall provide by law." Ill.Const.1970, art IX, §4(a). The Illinois Supreme Court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." Apex Motor Fuel v. Barrett, 20 Ill. 2d 395, 401 (1960). 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. [citation omitted.] The constitutional provision for uniformity . . . does [not] call for a 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 v. Property Tax Appeal Board, 131 Ill. 2d 1, 21 (1989).

In this appeal, the appellant submitted sales information and assessment data on 31 randomly chosen comparables within the subject's immediate area to demonstrate that the subject property

was being assessed at a greater percentage of market value than nearby properties. The appellant's comparables were located in West Deerfield Township within two specified neighborhood codes assigned by the assessor. The appellant contended they all were within the same elementary school district. The appellant's 31 comparables sold between June 2004 and October 2007 for prices ranging from \$895,000 to \$1,725,941 and had total assessments reflecting 2007 estimated market values ranging from \$829,032 to \$1,361,085 and thus were assessed anywhere from 7.95% to 26.18% less than recent sale prices.

In contrast, the subject property was appraised as of January 1, 2007 for \$1,200,000 but had a total assessment reflecting a 2007 estimated market value of \$1,178,565 or 1.79% less than its appraised market value. In summary, the subject property has an assessment that is substantially closer to its actual estimated market value than the appellant's 31 similar assessment and recently sold comparables and on this basis, the appellant contends the subject has been inequitably assessed.

The Property Tax Appeal Board finds that the appellant's submission of 31 comparable properties included data on six properties that sold for prices similar to the appraised value of the subject. Those six properties sold for prices ranging from \$1,160,000 to \$1,225,000 and occurred from March 2005 to October 2007. These properties had total assessments ranging from \$279,525 to \$353,925. Based upon the appellant's submission, the 2007 assessment to sales price ratios for these six properties ranged from 23.79% to 30.51%. Whereas the subject has a total 2007 assessment of \$392,855 and an estimated market value of \$1,200,000 so that the subject has a resulting assessment to market value ratio of 32.74%. The Property Tax Appeal Board finds this evidence demonstrates that the subject property was not being assessed uniformly with properties having similar market values.

The board of review presented three suggested comparable sales that occurred between April and August 2007 for prices ranging from \$1,082,500 to \$1,320,000 and these properties had total assessments reflecting 2007 estimated market values ranging from \$1,004,547 to \$1,198,569 or from 6.36% to 9.20% less than its recent sale prices as noted by the appellant in his rebuttal submission. The 2007 assessment to sales price ratios for these properties ranged from 30.27% to 31.21%. In light of these three comparables sales and respective assessments presented by the board of review, the Property Tax Appeal Board further finds that the board of review did not establish with the use of its comparables that the subject property was being assessed at a substantially similar proportion of its value when compared to similar valued properties located in the taxing district.

Based on this data, the Property Tax Appeal Board finds that the subject's assessment is excessive in relation to its estimated market value and a reduction in the subject's assessment 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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

*J. R.*

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: November 30, 2012

*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.