



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

APPELLANT: Edwin Ziarko
DOCKET NO.: 07-03971.001-R-1
PARCEL NO.: 09-16-210-018

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

**LAND: \$69,940
IMPR: \$90,310
TOTAL: \$160,250**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame and masonry construction containing 2,712 square feet of living area. The dwelling is 23 years old. Features of the home include an unfinished basement of 1,131 square feet of building area, central air conditioning, and an attached two-car garage of 525 square feet of building area. There is also a 384 square foot shed on the property which is located in Westmont, Downers Grove Township, DuPage County.

The appellant's appeal is based on unequal treatment in the assessment process with regard to the subject's improvement assessment; no dispute was raised concerning the subject's land assessment. The appellant submitted information in a grid analysis on three comparable properties located within $\frac{3}{4}$ -mile of the subject. Appellant contended the properties in the Villas of Deer Creek subdivision were constructed by the same developer as the subject property and were the same model dwelling as the subject with slight variations in the floor plan and additional external amenities. The comparables were two-story frame and masonry dwellings that range in age from 22 to 24 years old. The comparable dwellings range in size from 2,612 to 2,655 square feet of living area. Features include unfinished basements, central air conditioning, a fireplace, and a garage ranging in

size from 462 to 484 square feet of building area. The comparables have improvement assessments ranging from \$85,690 to \$87,780 or from \$32.57 to \$33.30 per square foot of living area. The subject's improvement assessment is \$103,620 or \$38.21 per square foot of living area.

The appellant also set forth in a letter an analysis of the percentage increase of the subject property over time and in comparison to other properties in the subject's neighborhood; appellant further contended that the similar properties in nearby Villas of Deer Creek subdivision did not have a similar assessment increase. Appellant further contended that in 2006 according to the Illinois Association of Realtors, residential property in DuPage County had a median price increase of 3.7% and thus appellant contends the subject dwelling had an excessive assessment increase in 2007. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$82,510 or \$30.42 per square foot of living area based on the argument that the improvement assessment should increase no more than 3.14% from 2006 to 2007.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$173,560 was disclosed. In support of the subject's assessment, the board of review presented a memorandum from the township assessor along with a grid analysis which reiterated the appellant's comparables and presented four comparable properties located in the subject's neighborhood which the assessor contends support the subject's assessment on grounds of equity and uniformity.

The four comparable properties consist of two-story frame or frame and masonry dwellings that range in age from 2 to 38 years old. The dwellings range in size from 2,012 to 3,053 square feet of living area. Based on the limited descriptive data in the grid analysis, features include full or partial unfinished basements and garages ranging in size from 483 to 637 square feet of building area. From the property record cards which were attached, three comparables have central air conditioning and a fireplace; each comparable has a deck and/or patio and one comparable has a shed. These properties have improvement assessments ranging from \$78,860 to \$148,930 or from \$34.73 to \$48.78 per square foot of living area.

In the assessor's memorandum, it was noted that each of the appellant's comparables, other than being in a different neighborhood and having a smaller lot, were otherwise similar to the subject dwelling. The assessor also wrote that there are dwellings similar to the subject scattered in both the subject's subdivision and in other areas of the community. The assessor noted that land values differed in the subject's subdivision and in the nearby subdivision. Lastly, the assessor reported: "The building composite factor is determined based on the residual to attain market value, as follows: Land in [subject subdivision] is priced at 559; the building composite factor is 5.12; land in

[Villas of Deer Creek] is priced at 855; the building composite factor is 4.32."

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, among other matters, the appellant argued that board of review comparable #1 was dissimilar to the subject given its all brick construction and complex roof design as shown in a submitted photograph. Appellant further set forth data and arguments concerning the median tax bill in the township and how the subject has received an unfair increase in its tax burden. Appellant further analyzed and discussed the data presented by the board of review as to both equity and market value evidence.

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 warranted.

The appellant contends 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). After an analysis of the assessment data, the Board finds the appellant has met this burden.

The appellant in part attempted to demonstrate the subject's assessment was inequitable because of the percentage increases in its assessment from 2006 to 2007 and in comparison to both other assessment increases in the subject's subdivision and in a nearby subdivision. The 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. 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.

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).

As to the merits of the lack of uniformity argument, the parties submitted a total of seven comparables for the Board's consideration to support their respective positions. The Board has given less weight to all of the board of review comparables because comparable #1 is larger and substantially newer than the subject dwelling, and comparables #2, #3 and #4 were each older and/or smaller than the subject dwelling. Thus, the Board finds the comparables submitted by the appellant were most similar to the subject in size, style, exterior construction, features and 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 \$32.57 to \$33.30 per square foot of living area. The subject's improvement assessment of \$38.21 per square foot of living area is above the range established by 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 improvement assessment is not equitable 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mark Morris

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: February 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.