FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Paul & Julie Myers
DOCKET NO.: 07-04033.001-R-1
PARCEL NO.: 18-01-229-058

The parties of record before the Property Tax Appeal Board are Paul & Julie Myers, the appellants, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$ 84,725
IMPR.:	$111,632
TOTAL:	$196,357

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story modular dwelling of frame construction containing 3,394 square feet of living area. The dwelling is 1 year old. Features of the home include a partial English basement of 1,697 square feet of building area,[1] central air conditioning, and both an attached one-car and a detached two-car garage for a total of 898 square feet of garage area. The property is located in Crystal Lake, Grafton Township, McHenry County.

The appellants appeared before the Property Tax Appeal Board contending unequal treatment in the assessment process with regard to the improvement assessment of the subject property; no dispute was raised concerning the land assessment. In support of this contention, the appellants submitted information on nine comparable properties in a grid analysis along with color photographs of the comparables and an eleven-page letter/brief in support of their position. The appellants also reported that the subject parcel was purchased in July 2001 for $330,000 and the dwelling was constructed in 2006 at a construction cost of $354,000.

[1] The board of review schematic of the subject drawing contains the best evidence of the basement size; the appellants reported a basement area of 1,560 square feet.

Among the matters raised in the appellants' letter/brief were concerns subtitled "The Unfair Process in McHenry County." As to this aspect of the appellants' argument, the Property Tax Appeal Board has no jurisdiction over the appeal process occurring at the McHenry County Board of Review; the jurisdiction of the Property Tax Appeal Board is limited to determining the correct assessment of the property appealed to the Property Tax Appeal Board (35 ILCS 200/16-180). (See also the Official Rules of the Property Tax Appeal Board, 86 Ill. Admin. Code, Sec. 1910.50(a), "All proceedings before the Property Tax Appeal Board shall be considered *de novo* meaning the Board will consider only 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 . . . .")

In support of the improvement inequity argument, the appellants presented a grid analysis of nine suggested comparable properties of which six were located "down the street" from the subject and of which three were located "across [the] lake." With regard to lakefront properties like the subject, the appellants argued that these dwellings along the lake are constantly being renovated and updated such that it is clearly appropriate to compare the subject to other older dwellings in the area. Moreover, appellants assert that the subject dwelling is a "low-cost modular home" which was "constructed in a factory and trucked to the site." Appellants also contend that they have been advised that in any future sale of the subject dwelling, the appellants are obligated to disclose that the dwelling is a manufactured home; the appellants' also noted their realtor advised that the manufactured nature of the home must be disclosed in any listing within the first five years after delivery to the site.[2]

The equity comparables were described as eight, two-story dwellings and one, three-story dwelling of either frame or frame and masonry exterior construction that range in age from 23 to 80 years old. None of the comparables were reported to be modular or manufactured dwellings. Six comparables have basements ranging in size from 1,145 to 2,563 square feet of building area; three comparables have crawl-space foundations. Seven comparables were described as having central air conditioning and eight comparables have a fireplace. Eight comparables have garages and one comparable is said to have a boathouse. Five comparables also were said to have a screened porch, patio and/or deck. The comparable dwellings range in size from 2,763 to 4,406 square feet of living area. The comparables have improvement assessments ranging from $62,744 to $121,925 or from $22.70 to $30.18 per square foot of living area. The subject's improvement assessment is $111,632 or $32.89 per square foot of living area.

In the letter, appellants claimed the subject dwelling does not have the quality upgrades of the comparables in terms of countertops, bathrooms, and that the subject does not have a fireplace like most of the comparables. Appellants report the

[2] No statutory citation was included to support this contention.

comparables feature decks and porches adding to the value of these lakeside homes whereas, unless a variance is obtained, the subject may only have a 15 square foot landing. Appellants also reported their comparables #2 and #4 were featured on a fundraising home tour which reflects their high quality. Although no market evidence was presented, appellants assert these comparables which are assessed less than the subject would command a sale price higher than the subject property. In summary, appellants contend the comparables, while older dwellings, are much nicer custom homes with updates and improvements, except for one.

Based on this evidence, the appellants requested a reduction in the subject's improvement assessment to $91,366 or $26.92 per square foot of living area.

During cross-examination, the appellants explained why they felt the initial purchase in 2003 for the land (consisting of two parcels) and one existing dwelling turned out to be a mistake due to various issues. The appellants purchased the property from an acquaintance for $660,000 with the belief that a second dwelling could be built on the property. Based on a survey, the appellants were also aware that the existing dwelling encroached on the second parcel at the time of purchase, but they also believed they could remove the encroaching addition and thereafter rehab the dwelling. Later, however, appellants were not permitted to remove the encroaching portion of the dwelling.

As to the comparables submitted by appellants, during cross-examination the appellants reiterated their belief that based upon the remodeling and updating of the comparable properties, the effective age and/or actual age of their comparables was sufficiently similar to the subject dwelling built in 2006 for purposes of comparison. In other words, from a market perspective appellants contend the age of a lakefront dwelling would not be a significant factor.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $196,357 was disclosed. The subject, based on its assessment, has an estimated market value of $590,547 or $174.00 per square foot of living area including land based on the 2007 three-year median level of assessments in McHenry County of 33.25%. In support of the subject's assessment, the board of review submitted a letter from the Grafton Township Assessor along with a grid analysis of four suggested comparable properties and a grid analysis re-stating the appellants' nine comparable properties.

At hearing the board of review called Chad Schmidt, Deputy Assessor of Grafton Township, for testimony regarding the appellants' comparable properties reflecting the depreciation applied to these older dwellings. (See page 2 of the assessor's letter). He further testified that depreciation tables are used with a grading factor for condition thus resulting in an effective age that may differ from the dwelling's actual age. He

further noted that building permits are considered when there is specific data about the purpose of the remodeling, such as the addition of fixtures or completion of a basement, which is factored into the assessment. However, the deputy assessor acknowledged that in most instances generalized remodeling of a property done through a building permit does not impact the assessment of the property since the assessor's office does not have the staff to inspect and/or investigate every property which is remodeled. Schmidt further testified, as an example, appellants' comparable #2 in 1989 obtained a building permit for "remodel" in the amount of $95,000 which the assessor's office would treat as a substantial upgrade reducing the effective age of the property by changing the grade from average to good or even excellent. The dwelling's effective age and/or quality determination is not reflected on the property record cards submitted in this matter. All other things being equal in terms of size and amenities, the deputy assessor testified that an older dwelling would have a lower per square foot improvement assessment than a newer dwelling.

In support of the assessment, the board of review set forth four comparable properties consisting of two-story frame dwellings that range in age from 1 to 11 years old. Three comparables have crawl-space foundations and one comparable has an English basement of 1,663 square feet of building area. Each comparable has central air conditioning and at least one garage; three comparables have one or two fireplaces and three comparables have porches. The dwellings range in size from 3,005 to 3,317 square feet of living area. These properties have improvement assessments ranging from $105,302 to $140,419 or from $32.84 to $42.33 per square foot of living area.

In reiterating the appellants' nine comparables, there were slight differences in story height where the assessor set forth the comparables as two, one and one-half story dwellings, one, two and one-half story dwelling, and the remainder as two-story dwellings. Also, appellants' comparable #9 did not have central air conditioning. In the letter, the assessor noted the appellants' comparables were considerably older and did not have the foundation of the subject. As described in the letter, the assessor evaluated the subject dwelling using the same standards and criteria as other properties in Grafton Township.

The assessor also reported six sales of lake properties identifying their street address, sale price and date of sale along with a notation if the dwelling was subsequently torn down. The sales occurred between June 2006 and July 2007 for prices ranging from $605,000 to $985,000. The assessor also reported three properties listed for sale as of January 11, 2008 with address and listing prices ranging from $549,900 to $875,000.

In addressing the purported need to disclose the modular construction of the subject dwelling, the board of review representative who is a Realtor testified that there is no mandatory disclosure required of the dwelling as a modular home.

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

In written rebuttal and in rebuttal at hearing, the appellants reiterated what they perceived to be quality differences between the subject property and the comparables presented by the appellants. Appellants further contend that board of review comparables #1 and #3 are luxurious custom dwellings with balconies, decks, porches and other rich finishing touches and therefore not comparable to the subject dwelling. In the course of presenting rebuttal evidence and argument, the appellants testified that in 2007 the subject property was appraised by a reputable appraisal company for $700,000.

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 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). After an analysis of the assessment data, the Board finds the appellants have not met this burden.

The parties submitted thirteen comparables for the Board's consideration. The Board has given less weight to the appellants' comparables due to differences in age and/or size of the living area of the comparables. The Board finds the comparables submitted by the board of review 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 $105,302 to $140,419 or from $32.84 to $42.33 per square foot of living area. The subject's improvement assessment of $111,632 or $32.89 per square foot of living area is within the range established by the most similar comparables in this record. On the basis of the assessment equity information submitted by the parties, the Board finds that the evidence has not demonstrated that the subject property is assessed in excess of what equity would dictate. Therefore, the Property Tax Appeal Board finds that no reduction of the subject's assessed valuation is warranted. 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.

When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment

inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The supreme court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) 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.]
>
> Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for 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.] 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, 131 Ill. 2d at 21. The Board finds the subject property was constructed in 2006 for $354,000, but its January 1, 2007 improvement assessment reflects an estimated market value for the dwelling only of approximately $335,735 using the 2007 three-year median level of assessments for McHenry County of 33.25%. Furthermore, the subject's total assessment reflects a market value of $590,547 which is below its recent appraisal of $700,000 as testified to by the appellants at hearing.

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, 169 N.E.2d 769 (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 in this record.

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: October 28, 2009

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.