



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

APPELLANT: Brian & Dorothy Lipinski
DOCKET NO.: 07-04182.001-R-1
PARCEL NO.: 05-14-411-015

The parties of record before the Property Tax Appeal Board are Brian and Dorothy Lipinski, the appellants, by attorney Terrence J. Benshoof, of Bordelon, Benshoof & Armstead, P.C., Glen Ellyn, Illinois; and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$72,670
IMPR.: \$109,050
TOTAL: \$181,720

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single family dwelling of frame construction that contains 3,282 square feet of living area. The dwelling was constructed in 1959 with an addition in 2004. Features of the home include a partial basement that is partially finished, central air conditioning, one-fireplace and a 462 square foot detached garage. The improvements are located on a 9,250 square foot parcel in Glen Ellyn, Milton Township, DuPage County.

The appellants and their counsel appeared before the Property Tax Appeal Board contending the assessment of the subject property was excessive. The appellants submitted a petition contending assessment inequity with respect to both the land and the improvements as the basis of the appeal. On the Residential Appeal form the appellants identified three comparables improved with two-story dwellings of frame or brick construction that ranged in size from 2,380 to 2,976 square feet of living

area. The comparable dwellings ranged in age from 29 to 35 years old. Each comparable has a basement that was partially finished, two comparables have central air conditioning, each comparable has a fireplace and each has a attached garage that ranges in size from 330 to 483 square feet. These properties have improvement assessments that range from \$101,520 to \$104,630 or from \$35.16 to \$43.72 per square foot of living area. These same comparables have parcels that range in size from 6,250 to 16,116 square feet of land area. These properties have land assessments that range from \$62,500 to \$93,670 or from \$5.81 to \$10.00 per square foot of land area.

In the addendum attached to the petition the appellants asserted that the 2005 improvement assessment of the subject property was reduced due to the fact that an addition that would have increased the size of the subject dwelling, replaced rotting siding, windows and a porch remained unfinished. The appellants indicated that the 2007 assessment increased approximately 42% from the 2006 assessment. The appellants contend the interior of the addition has not changed since the 2005 assessment year and no work has been done on the porch, windows or siding. The appellants noted the subject's improvement assessment increased 6% while the comparables had assessments that decreased from 5% to 31%. The appellants also stated in the written statement the subject's land "value" increased 308% while the comparables had land "values" that increased from 160% to 249%. The appellants are of the opinion that the property has remained unchanged since 2006 and should not have an increased in assessed value by 42%. The appellants stated the subject's land assessment should be \$51,265 based on an average comparable increase of 188% and the improvement assessment should be \$101,020, based on an average comparable decrease of 22.76%.

At the hearing the appellants' attorney made reference to an appraisal that was submitted as part of the appellants' rebuttal evidence and was again tendered at the hearing and marked as Exhibit A. The board of review objected to the appraisal arguing the appraisal was not filed in a timely manner. The Board sustains the board of review's objection and will give the appraisal no weight. First, the appellants indicated on section 2e of the petition that their appeal was based on assessment equity. Additionally, the addendum attached to and filed contemporaneously with their petition made no reference to a recent appraisal or that they were challenging the market value reflected by the assessment of the subject property. Section 16-180 of the Property Tax Code provides in part that:

Each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board.

. . .

35 ILCS 200/16-180. Based on this provision and the state of the record, the Board finds the appellants did not list recent appraisal as the basis of the appeal at the time the petition was

filed. Therefore, the Board will not consider this aspect of the appellants' argument.

Second, the Board will not consider the appraisal as rebuttal evidence. Section 1910.66(c) of the Rules of the Property Tax Appeal Board provides that:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence.

86 Ill.Adm.Code 1910.66(c). Because the appraisal was not submitted with the appellants' appeal petition, but submitted as rebuttal evidence, it is considered new evidence, not rebuttal evidence, in violation of Section 1910.66(c) of the Rules of the Property Tax Appeal Board and will not be considered by the Board in this appeal.

At the hearing Dorothy Lipinski was called as a witness. The witness testified that in 2004 an addition was put on the house. The addition was to add a great room, a master bedroom, a master bathroom and an office. Additionally, the house was to be tied together with new windows and siding. The appellant testified the siding on the original house was masonite and was rotting at the time the addition was started. The witness also testified the windows were also rotting at the time of the addition.

The witness explained that after the shell of the addition was completed the builder had spent all the money and abandoned the project, which was about one-half completed. As a result the master bathroom was not completed and is used as a storage room. Additionally, the two sections of the house were not tied together, the exterior on the original house is still rotting and remains masonite siding, the windows were not replaced and much of the finish work was never completed.

The witness explained that in the year following the addition the assessment increased but upon inspection the assessment was lowered. In 2006 there was not a significant increase in the assessment of the subject property. In 2007 the assessment of the subject property was increased even though nothing of significance had changed. The appellant did testify that they did receive an occupancy permit to live in the space that was added to the subject dwelling.

The appellant testified the subject is located close to the property to the north of it and there had been no change in the land. The appellant testified that last fall she was told by a real estate agent that if they put in approximately \$70,000 to complete the work they could list the home for sale for a price of \$525,000 in hopes of selling the property for \$500,000 to \$525,000.

Under cross-examination the appellant testified that the realtors were consulted about selling subject the property in the July to August 2008 time frame. The appellant testified the great room and master bedroom were finished. She stated the office and master bathroom were not completed.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment totaling \$181,720 was disclosed. The subject had a land assessment of \$72,670 or \$7.86 per square foot of land area. The subject has an improvement assessment of \$109,050 or \$33.23 per square foot of living area. The evidence provided by the board of review disclosed the subject had a home improvement exemption (HIE) of \$25,000. Adding back the \$25,000 HIE to the improvement assessment, results in an improvement assessment of \$134,050 or \$40.84 per square foot of living area.

The board of review was represented at the hearing by Charles Van Slyke, member of the DuPage County Board of Review. In support of the assessment the board of review submitted Exhibit #1 containing comparables selected by the township assessor's office and an analysis of the comparables submitted by the appellant that was also prepared by the township assessor's office. The board of review called as its witness Milton Township Deputy Assessor Cathy Zinga.

To demonstrate the subject property was equitably assessed the assessor's office utilized twelve comparables identified as Assessor's A through Assessor's L. The comparables were described as two-story dwellings of frame or brick and frame construction that ranged in size from 2,398 to 3,280 square feet of living area. The dwellings were constructed from 1925 to 1959. Each comparable has a full or partial basement with nine being partially finished, ten comparables have central air conditioning, eleven comparables have one or two fireplaces and each comparable has a garage. The comparables have parcels that range in size from 7,550 to 16,500 square feet. The total assessments for the properties ranges from \$203,630 to \$241,350. The comparables have improvement assessments ranging from \$124,360 to \$168,680 or from \$43.21 to \$68.40 per square foot of living area. These same comparables have land assessments ranging from \$66,670 to \$93,670 or from \$5.68 to \$8.83 per square foot of ground area.

Ms. Zinga testified she inspected the subject property in October 2008. The witness further testified that the assessment of the bathroom that was not completed was removed following the cancellation of an inspection that was to occur on December 12, 2007. Ms. Zinga testified that on her inspection most of the addition was completed, the only things not complete in the rooms, besides the bathroom, was the baseboard. She also determined that after the inspection and considering the updating on the original part of the house that still need to be done and

the good condition of the new addition, the subject was an "average" house.

Ms. Zinga also testified that in 2007 the land in the neighborhood was reworked and reassessed using a base lot method. Evidence in the record disclosed that land was assessed in 1,000 square foot increments with land ranging in size from 9,001 to 10,000 square feet being valued at \$218,000 resulting in a assessment of \$72,670.

Ms. Zinga noted that two of the appellant's comparables had dwellings that were smaller than the subject property. The witness further testified that the appellants' first two comparables had mansard roofs and are given a 10% lower factor.

The witness further noted that the assessor's comparable had lots with similar assessments as the subject pursuant to procedure used by the assessor's office. The witness also noted her photograph of the subject depicts the front of the subject dwelling while the appellants' photograph depicts a side view of the subject dwelling.

Ms. Zinga testified that the first six comparables submitted by the assessor's office were similar to the subject in size while the second page of six comparables had four smaller homes but were located on busier streets.

Ms. Zinga was then cross-examined by the appellants' counsel with respect to the comparables and the land assessment. She was also questioned with respect to the theory behind the purchase of a parcel improved with a home that was subsequently removed and how that related to land value.

The next witness called on behalf of the board of review was Ginny Westfall, Deputy Township Assessor for Milton Township. She testified that when property in the neighborhood was revalued in 2007 she physically drove by and viewed every property. The subject property was considered average for the neighborhood. She also testified the subject property had an HIE that will expire at the end of 2008. She testified that the assessment of the subject property on the assessor's assessment grid analysis was at full value.

Ms. Westfall testified in valuing land in the neighborhood they examined vacant lot sales and sales of lots that were improved with homes that were purchased with the intent of tearing down the existing home and constructing a new home that occurred during the previous three years. She testified that historically land in the neighborhood was under assessed so the value of the land did not increase by 300% in one year. She also testified that the amounts in column 15 of the assessor's grid analysis was market derived but are a hybrid of a cost approach. She explained a cost table is used but is driven by the market.

Under cross-examination Ms. Westfall was questioned about the 300% increase in the subject's land assessment.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record does not support a reduction in the assessment of the subject property.

The appellants submitted the petition contending assessment equity 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 assessments 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 a reduction is not warranted.

The appellants argued in part that the subject's improvement assessment should be reduced due to the fact that they identified comparables that had improvement assessments that decreased from 5% to 31% while the subject had an improvement assessment increase of 6%. The Board gives this argument no weight. The Board finds the comparables used by the appellants were not similar to the subject in age, two comparables were not similar to the subject in style with mansard roofs as depicted in the photographs and two were not similar to the subject in size. The Board finds these factors or characteristics need to be considered in determining whether changes in assessments from one year to the next are justified or supported by the market. The mere fact that assessments of properties change by differing percentages, especially at the beginning of a new general assessment period, does not demonstrate assessment inequity. The appellants did not submit any data which demonstrated that the subject was being assessed disproportionately in relation to its market value in comparison to their three comparables. Furthermore, testimony provided by the deputy assessors indicated that 2007 assessments in the neighborhood were reworked, which may result in assessment changes that vary from property to property based on the location and physical characteristics unique to each property.

The Board finds the record contains assessment information on 15 improved comparables submitted by the parties. The Board finds the comparables submitted by the assessor identified as assessor's comparables A, B, C, D, E, F, and G were most similar to the subject property in age, size, style and features. These comparables were built from 1950 to 1959 and ranged in size from 2,902 to 3,280 square feet of living area. These properties had improvement assessments ranging from \$43.92 to \$53.10 per square foot of living area. The subject has an improvement assessment prior to the deduction of the HIE of \$134,050 or \$40.84 per

square foot of living area.¹ The subject's improvement assessment is below the range established by the most similar comparables in the record on a per square foot basis, which the Board finds demonstrates the subject dwelling is being equitably assessed.

The appellants also argued the subject's land was being inequitably assessed and the increase in assessment was excessive. The Board gives this argument no weight. Testimony provided by the deputy township assessor disclosed that for 2007 land in the subject's neighborhood was reworked and reassessed using a base lot method. Testimony from the deputy assessors indicated that the land value was changed from 2006 based on an analysis of sales of vacant lots and sales of lots purchased with existing homes with the intent to remove the dwelling and construct a new home. The record contains a chart submitted by the board of review disclosing the base lot value parameters for 2007 in the subject's neighborhood used by the assessor's office. Basically, land was assessed on a base lot method in 1,000 square foot increments. Land containing 9001 to 10,000 square feet was to be assessed at \$72,670. The subject parcel with 9,250 square feet was assessed at \$72,670. The assessor's comparables E, I, J and L contained 10,000, 9,750, 9,300, and 9,300 square feet of land area, respectively. Each of these comparables has a land assessment of \$72,670, equivalent to the subject's land assessment. The Board finds the subject land is being equitably assessed in accordance with the procedure established by the assessor's office and is equivalent to similar sized parcels. For these reasons the Board finds the subject's land assessment as established by the board of review is correct.

In conclusion, based on this record, the Property Tax Appeal Board finds no reduction in the assessment of the subject property is warranted.

¹ The subject's improvement assessment as reflected in the board of review decision and in the decision issued by this Board reflects the deduction of the \$25,000 HIE.

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 Morris

Member

Shawn R. Lerbis

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 25, 2009

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.