



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

APPELLANT: Thomas & Jean Whalls
DOCKET NO.: 07-04203.001-R-1
PARCEL NO.: 05-14-123-007

The parties of record before the Property Tax Appeal Board are Thomas & Jean Whalls, the appellants, by attorney Gary L. Taylor of Rathje & Woodward, LLC, Wheaton; and the DuPage County Board of Review.¹

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: \$44,200
IMPR.: \$0
TOTAL: \$44,200

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a vacant parcel with 20,000 square feet of land area that is located at 261 North Main St., Glen Ellyn, Milton Township, DuPage County.

The appellants contend assessment inequity with respect to the land assessment as the basis of the appeal. In support of this argument the appellants submitted descriptions and assessment information on three comparables located in Glen Ellyn. The data included printouts from the Milton Township Assessor's website for the subject and the three comparables. The comparables consisted of vacant parcels that ranged in size from 16,500 to 45,540 square feet of land area. The comparables had land assessments ranging from \$37,600 to \$60,160 or from \$.99 to \$3.36 per square foot of land area. The subject has a land assessment of \$102,670 or \$5.13 per square foot of land area.

At the hearing the appellant, Thomas Whalls, was called as a witness. He testified that he has owned the subject lot since

¹ A consolidated hearing was held for Property Tax Appeal Board Docket Nos. 07-04203.001-R-1 and 07-04178.001-R-2.

August 2005. He further testified the lot is vacant except for trees. He testified he identified three comparables, which were located at 694 North Park Blvd., 680 Lenox Rd., and 305 Oak St. in Glen Ellyn. The witness testified the property on Lenox Road is located in the Lake Ellyn area, which is very desirable. He further testified that the property located at North Park Boulevard is two blocks from the lake and is more desirable than Main Street with higher end homes. The witness also testified comparable #3 located on Oak Street is located approximately one mile north of the subject in a nice area with homes anywhere from \$500,000 to \$2.3 million. Whalls was of the opinion that these three lots were much more desirable than the subject parcel. He testified that Main Street is a busy street, the main thoroughfare to get to downtown and the College of DuPage. He stated the homes on Main Street are not as high priced as they are on the three other streets.

Based on this evidence the appellant requested the subject's assessment be reduced to \$44,200.

During cross-examination the appellant testified he purchased the subject property in August 2005 for a price of \$490,000. The printout from the assessor's website indicated the subject was actually purchased in August 2004 for a price of \$495,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$102,670 was disclosed. The subject's assessment reflects a market value of \$308,689 or \$15.43 per square foot of land area using the 2007 three year average median level of assessment for DuPage County of 33.26%.

The board of review called as its witness Ginny Westfall-Sprawka, Chief Residential Deputy Assessor in Milton Township. The deputy assessor testified that the appellants' comparables were located in different assessment neighborhood codes than the subject property. She explained that in their sales study they would not have used the appellants' comparables because they were located in a different neighborhood. She further testified that in 2007 the buildings and land were revalued in the subject property's neighborhood code.

In support of the assessment the deputy assessor submitted sales comparables located within the subject's neighborhood to show that parcels have sold with the intention of demolishing the existing homes and building new homes. She testified that all the parcels have demolition permits and explained in the written submission the permits were taken out after the purchase of the property. The submission entitled Assessor's Sales Comparables listed nineteen sales that had parcels ranging in size from 7,500 to 31,195 square feet of land area that were located in the same neighborhood code as the subject. The sales occurred from February 2004 to December 2006 for prices ranging from \$310,000 to \$527,000 or from \$16.03 to \$49.33 per square foot of land area.

She testified that these sales had a wide price range on a per square foot basis. However, the assessor's office developed a base lot method to value these lots in 1,000 square foot increments. A chart the witness developed indicated that the median value for a lot the size of the subject was \$308,000.

The deputy assessor also prepared a document entitled Assessor's Equity Comparables listing twenty comparables with the same neighborhood code as the subject. These comparables had lots ranging in size from 19,150 to 20,000 square feet of land area and each had a land assessment of \$102,670, the same as the subject.

Under cross-examination the witness testified the different neighborhood codes were established by the deputy assessors approximately 16 or 17 years ago. She testified that the boundaries could be based on streets and schools but basically most were determined based on the selling prices of homes. She also agreed that her comparable sales were not vacant at the time of sale. She also agreed that each of her equity comparables was improved because each also has a building assessment.

The witness further testified that the lot located at 694 North Park Boulevard had an assessment of approximately half that of the subject property because it was not located in the subject's neighborhood and was not reworked (revalued) in 2007. The assessment on that property just received a factor in 2007. She agreed that this comparable was located in Milton Township. The witness testified that appellants' comparable #2 located at 680 Lenox Road had an assessment approximately \$1.80 per square foot less than the subject because the property is located in a different neighborhood code and was not revalued in 2007. She also agreed that appellants' comparable #3 located at 305 Oak Street is located in a different neighborhood code and was not revalued in 2007. The witness testified that these other neighborhoods were not revalued from the ground up as was the subject's neighborhood but received factors based on the sales ratio study.

The deputy assessor further stated that appellants' comparable #1 probably isn't worth less than the subject property. She further indicated that the property at 680 Lenox Road, appellants' comparable #2, is probably worth more than the subject. She also agreed that appellants' comparable #3 would be worth more than the subject.

The witness explained that each neighborhood in the township that was not revalued from the ground up received a factor based on the sales ratio study for that neighborhood. She also acknowledged that 2007 was the beginning of a new general assessment period. She explained the entire township was not revalued because it was physically impossible to do so. The witness explained they chose to revalue the subject's neighborhood because it was the biggest neighborhood and the one

that appeared to be more under assessed than some of the others. The witness further indicated that the subject sold in August 2004 for a price of \$495,000. (The appellant, Thomas Whalls, indicated she might be right.)

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 supports a reduction in the subject's land assessment.

The appellants contend assessment inequity 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, 544 N.E.2d 762, 136 Ill.Dec. 76 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction

The Uniformity Clause of the Illinois Constitution provides that: "Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401, 169 N.E.2d 769 (1960). Taxation must be in proportion to the value of the property being taxed. Apex Motor Fuel, 20 Ill. 2d at 401; Kankakee County Board of Review, 131 Ill.2d at 20, 544 N.E.2d 762, 136 Ill.Dec. 76 (fair cash value is the cornerstone of uniform assessment.) It is unconstitutional for one kind of property within a taxing district to be taxed at a certain proportion of its market value while the same kind of property in the same taxing district is taxed at a substantially higher or lower proportion of its market value. Kankakee County Board of Review, 131 Ill.2d at 20, 544 N.E.2d 762, 136 Ill.Dec. 76; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234, 692 N.E.2d 260, 229 Ill.Dec. 487 (1998). After considering the testimony and an analysis of the assessment data the Board finds a reduction is warranted.

Testimony provided by the deputy assessor was that 2007 was a general assessment year. Section 9-155 of the Property Tax Code provides in part that:

Valuation in general assessment years. On or before June 1 in each general assessment year in all counties with less than 3,000,000 inhabitants. . . the assessor, in person or by deputy, shall actually view and determine as near as practicable the value of each property listed for taxation as of January 1 of that year. . . and assess the property at 33 1/3% of its fair cash value. . . .

35 ILCS 200/9-155. Testimony by the deputy assessor indicated that property in subject's neighborhood code, including the subject property, were revalued ground up in 2007. Conversely, other property within Milton Township but not located in the subject's neighborhood code were not revalued but had their assessments recalculated by the application of an equalization factor determined by the sales ratio study applicable for the respective neighborhood. This selective implementation of a quadrennial reassessment appears to be in violation of section 9-155 of the Property Tax Code's requirement that the assessor is to determine the value of each property as of January 1 and assess the property at 33 1/3% of its fair cash value.

As noted, the Illinois Constitution's uniformity clause requires not only uniformity in the level of taxation, but also in the basis for achieving the levels. Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 235, 692 N.E.2d 260, 229 Ill.Dec.487 (1998); Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 20, 544 N.E.2d 762, 136 Ill.Dec.76 (1989). The record in this appeal disclosed that in 2007 the assessing officials used different methods in valuing property within Milton Township, one being a complete revaluation of the property, such as was calculated for the subject, and another using sales ratio studies to calculate a factor used to adjust assessments in other neighborhoods. This practice appears to be in violation of the uniformity clause.

The Board further finds the record contains the assessments on three vacant parcels located in Milton Township submitted by the appellant as equity comparables. Testimony from both the appellant and the deputy assessor was consistent in that each was of the opinion these comparables were worth more than the subject parcel. Nevertheless, these comparables had land assessments of \$37,600, \$60,160 and \$44,900 or assessments per square foot of \$2.28, \$3.36 and \$.99, respectively. The subject has a land assessment of \$102,670 or \$5.13 per square foot of land area, which is above that of each of the comparables. The subject's assessment is above the range of the only vacant land comparables in the record even though the uncontradicted testimony was that each comparable was worth more than the subject. This evidence and testimony indicates the subject property was being assessed disproportionately in violation of the uniformity clause of the Illinois Constitution.

Based on this record the Board finds the subject parcel is being inequitably assessed and a reduction is justified.

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

J.R.

Acting 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: December 23, 2011

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.