FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: William & Elizabeth Bartolotta
DOCKET NO.: 07-04221.001-R-1
PARCEL NO.: 24-26-218-024

The parties of record before the Property Tax Appeal Board are William & Elizabeth Bartolotta, the appellants, and the LaSalle County Board of Review by Special Assistant State's Attorney Keith R. Leigh.

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

LAND:	$6,487
IMPR.:	$59,607
TOTAL:	$66,094

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 10,948 square foot parcel improved with a "raised ranch" single-family dwelling of frame exterior construction built in 1999. The dwelling, which has ten steps up to enter the front door, contains 1,568 square feet of living area and features a full finished basement, central air conditioning, and an attached two-car garage of 572 square feet of building area. There is also a 108 square foot porch and a 168 square foot deck. The property is located in Seneca, Manlius Township, LaSalle County.

In response to this appeal, the board of review conceded that there was a dwelling size error in the assessor's records. By decreasing the recorded dwelling size by 108 square feet, the board of review acknowledged that a reduction in the subject's improvement assessment to $59,607 was warranted. Therefore, at the hearing, the board of review requested a new reduced total assessment for the subject property of $66,094 from the previous LaSalle County Board of Review Final Decision of $67,021.

The appellant William Bartolotta appeared before the Property Tax Appeal Board on behalf of the appellants arguing that the fair market value of the subject property was not accurately reflected in its assessed value. In support of this overvaluation complaint, the appellants filed a letter and two appraisals of the subject property with the Property Tax Appeal Board.

In the letter, the appellants argued no improvements have been made to the property since original construction and therefore, "nothing to warrant a re-assessment." The appellants further contended that the assessing officials have assessed the subject property as a two-story dwelling by counting the basement as part of the above-ground living area whereas the subject is a raised ranch dwelling with a full finished basement.

Appellant Bartolotta also testified that the subject property was listed on the market in 2007 for $235,000 and the only offer to purchase received was for $205,000 which was rejected by the appellants. He further testified that "recently" (to the July 2010 hearing date) there is a potential buyer for the property at $190,000, but the buyer is still working on financing issues.[1]

Additionally, at hearing appellant argued that neighbors across the street "pay less taxes" than the appellants despite having similar properties with more bedrooms above-ground whereas the subject has only two bedrooms above-ground and several bedrooms in the basement.[2]

Turning to the appraisals submitted herein, the appellants presented an 'original' appraisal of the subject property with an opinion of market value as of December 7, 1999 of $162,500. The Property Tax Appeal Board finds that this appraisal has a valuation date too distant in time from the January 1, 2007 assessment date at issue herein to be relevant to the subject's current market value. Therefore, the Board will not further address this submission.

The appellants also submitted an appraisal of the subject property prepared as of November 1, 2007 with an estimated market value of $186,000 for the subject property in unencumbered fee simple title of ownership. The appraisal was prepared by Melissa Diehl of Mueller Appraisal Services and states that it was intended for a "refinance transaction." Diehl, a Certified

[1] In closing argument, the appellant contended this offer to purchase also includes substantial amounts of personal property in furnishings and lawn equipment worth around $10,000.

[2] The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation. (86 Ill.Admin.Code Sec. 1910.10(f)). The Board's jurisdiction is limited to determining the correct assessment of the subject property. Moreover, the appellants did not provide any assessment data on neighboring properties to analyze the whether there was uniformity in assessments or not.

Residential Real Estate Appraiser, was not present at hearing to testify with regard to the report and/or be cross-examined with regard to the analysis performed and conclusions reached.

In the appraisal, the appraiser reported the subject property had been on the market for 184 days commencing in May 2006 with a listing price of $229,000. As to the subject parcel, the appraiser reported a size of 10,498 square feet of land area. Appellant Bartolotta testified this measurement, which is 450 square feet smaller than the lot size reported by the assessing officials, is due to a back lot-line dispute with a neighbor who has dug up part of what appellants believed was their land. The appraiser also set forth that the subject dwelling contains 1,680 square feet of living area.[3]

The appraiser utilized the sales comparison approach to value in determining an estimated market value for the subject. In doing so, the appraiser set forth five suggested comparable sales said to be from .88 to 4.63-miles from the subject property. The comparable parcels range in size from 8,774 to 15,068 square feet of land area. The comparables consist of one, two-story, two, one-story and two, quad-level dwellings of frame exterior construction that range in age from new to 33 years old. The dwellings range in size from 1,328 to 1,972 square feet of living area. Three of the comparables have full basements, one of which is finished. Each comparable has central air conditioning and a two-car garage. One comparable has a fireplace. The comparables sold from November 2006 to October 2007 for prices ranging from $154,500 to $186,000 or from $94.32 to $116.34 per square foot of living area including land.

Next the appraiser made adjustments to the comparables for differences in lot size, condition, exterior, living area square footage, room count, basement and basement finish, and/or differences in other amenities from the subject. On page 3 of the appraisal report, the appraiser noted "the subject is newer split-level home that has been well maintained." Noting that no sales of split-levels could be found, the appraiser used ranch style homes, but also could find none with full finished basements that sold recently. The appraiser further remarked due to the lack of split-level sales, she used two additional comparables from the competing village of Marseilles (Sales #4 and #5). After adjustments as set forth in the report along with comments on page 3, the appraiser concluded adjusted sale prices for the comparables ranging from $172,600 to $191,974 or from $97.35 to $131.82 per square foot of living area including land. Most weight was given to Sales #1, #2 and #3 due to location. The appraiser then concluded an estimated fair market value of the subject of $186,000 or $118.62 per square foot of living area

[3] At hearing, appellant William Bartolotta agreed with the assessing officials that the dwelling actually contains 1,568 square feet of living area and that the appraiser erroneously calculated the dwelling size (see handwritten notation on building sketch from appraisal).

including land given the subject's actual size of 1,568 square feet of living area.

On the Residential Appeal form, the appellants requested a total assessment reduction for the subject property to $55,856 or a market value of approximately $167,568.

On cross-examination by counsel for the board of review, appellant confirmed that in early 2007 the subject property was listed for $235,000. The appellants rejected the offer for $205,000 along with conditions which the appellants felt were too low. The appellants counter-offered, but no sale was finalized. Bartolotta also reiterated that the primary concerns resulting in the instant appeal were the treatment of the home as a two-story dwelling and the fact that neighboring properties have lower assessments than the subject. Appellant also asserted that the subject's taxes increased 46% in one year which lead to the filing of this appeal. Lastly, he testified that the subject basement is 4 feet below grade due to the water table as compared to other basements that may be 6 feet or more below grade.

The board of review submitted its "Board of Review Notes on Appeal" as required by the Property Tax Appeal Board wherein the subject's final assessment was disclosed. As noted above, at hearing, the board of review agreed that the subject's total assessment should be reduced to $66,094 due to an error in the calculation of the dwelling size. The requested final total assessment of the subject property reflects a market value of approximately $199,018 or $126.92 per square foot of living area including land using the 2007 three-year median level of assessments for LaSalle County of 33.21% as determined by the Illinois Department of Revenue. In addition, the board of review submitted memorandums outlining the evidence, additional attachments and a grid analysis of four suggested comparable sales.

In response to the appellants' evidence, the board of review set forth various criticisms of the 2007 appraisal presented by the appellants. The date of value was November 1, 2007 and the appraisal was prepared for refinancing, not for *ad valorem* taxation. Sales #1, #2 and #3 in the appraisal are not comparable in style or design to the subject and the appraiser made no adjustments for age even though the comparables range in age from 16 to 33 years old. The board of review criticized the adjustment rate chosen for below grade area by the appraiser as being too low given the description of the subject. Also, Sales #4 and #5 in the appraisal, which are similar in style to the subject, were in a very different market area yet the appraiser did not adjust for location.

As to the treatment of the subject dwelling for assessment purposes, the board of review reported that dwelling was valued as a "split level" dwelling as shown on the property record card not a two-story. Specifically, the assessment was done utilizing

the Department of Revenue Cost valuation tables in a computerized Mass Appraisal system called Property Assessment Management System (PAMS). A board of review representative further testified that the subject dwelling is best classified as a split level with 4 feet below grade and the rest above grade, regardless of the number of steps to enter the dwelling. A board of review representative further acknowledged that for assessment purposes the above-grade living area will have a different cost than the basement or below-grade area before application of any market adjustments. The representative also testified that on a cost basis, a one-story with a basement will have a higher per-square-foot cost than a similarly sized split-level dwelling.

In support of the subject's assessment, the board of review presented a grid analysis of four comparables sales said to be located within 1.07-miles of the subject. The comparable parcels range in size from 8,400 to 39,000 square feet of land area. The parcels are improved with one, one-story and three, split-level frame exterior constructed dwellings that were built between 1989 and 1997. The dwellings range in size from 1,264 to 1,659 square feet of living area. Each features a basement or lower level ranging in size from 840 to 1,659 square feet of building area, each of which is either partially or fully finished. Each comparable has a two-car garage ranging in size from 441 to 720 square feet of building area and one comparable has a fireplace. These four comparables sold between March and October 2006 for prices ranging from $188,000 to $215,000 or from $120.51 to $160.91 per square foot of living area including land.

For each of the sales comparables, the board of review set forth adjustments for differences from the subject at the same rates used by the appellants' appraiser for lot size, dwelling size, number of bathrooms, finished lower levels, and other amenities. Thus, the board of review reported adjusted sales prices ranging from $203,039 to $221,676 or from $130.15 to $173.69 per square foot of living area including land.

Based on the foregoing evidence, the board of review requested a reduction in the subject's total assessment to $66,094 due to the size error in calculating the assessment of the dwelling.

In extensive written rebuttal, appellants addressed various points raised by the board of review and presented new evidence regarding vacant and unkempt neighboring properties. In response to the board of review's evidence, appellants disputed the treatment of the subject dwelling as a split level. In support of this contention, the appellants supplied a sample house plan describing such a split level dwelling as have three levels of living space where a "front door leads to platform between two levels, with stairs leading up and down to the other levels." Appellants also provided photographs depicting the construction of the basement foundation of the subject dwelling and reiterated that the subject dwelling is a raised ranch, not a split level.

As to the board of review's comparable sales, the appellants contend that Sale #4 included a second parcel with an above ground pool, but no adjustment was made to reflect the additional parcel.

Appellants also contend that proper notice of a change in the subject's 2008 assessment was not mailed to the appellants. Since proper procedures were not followed, in closing, the appellants requested that any adjustment to this 2007 assessment appeal also make a retroactive adjustment to the 2006 assessment and a prospective adjustment to the 2008 assessment of the subject property.[4]

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellants argued in part that no improvements have been done since the original construction of the dwelling and therefore nothing warrants a re-assessment of the subject property. As stated in the Property Tax Code, 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)). The Property Tax Appeal Board finds therefore that 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.

As to the parcel size for the subject property, the Property Tax Appeal Board finds the best evidence of the subject's lot size was presented by the board of review. A mere lot line boundary dispute with a neighbor, until resolved in a court of law and properly recorded, does not alter the official boundary lines and/or size of a parcel.

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[4] The Property Tax Appeal Board by law only has jurisdiction over cases in certain specific circumstances. (35 ILCS 200/16-160 and 185). At this time, the Board only has jurisdiction of this 2007 assessment. As to notice of subsequent assessment changes, the Property Tax Code specifically allows for the revisions of assessments as follows:

> The chief county assessment officer of any county with less than 3,000,000 inhabitants, or the township or multi-township assessor of any township in that county, may in any year revise and correct an assessment as appears to be just. Notice of the revision shall be given in the manner provided in Section 12-10 and 12-30 to the taxpayer whose assessment has been changed. (35 ILCS 220/9-75)

One of the manners of providing notice is by publication for years other than the general assessment year (Sec. 12-10).

The appellants argued that the subject's assessment was not reflective of market value. When market value is the basis of the appeal, the value of the property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 728 N.E.2d 1256 (2nd Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 86 Ill. Admin. Code Sec. 1910.65(c). The Board finds this burden of proof has not been met and a reduction in the subject's assessment beyond that requested by the board of review is not warranted on this record.

The Board finds the appellants submitted an appraisal of the subject property with a final value conclusion of $186,000, while the board of review criticized portions of that appraisal and submitted comparable sales data in support of the subject's assessment. The Property Tax Appeal Board finds that in the absence of the appraiser to testify with regard to the report and the adjustments made, less weight must be placed on the value conclusion set forth in the appraisal. Therefore, the Board will examine the sales data presented by the appellants within the appraisal along with the sales presented by the board of review.[5]

The Property Tax Appeal Board acknowledges the appellants' contention that the subject dwelling is misclassified as a split level dwelling when the appellants contend that it is a "raised ranch." However, the Board finds it noteworthy that the appellants' appraiser found using two quad-level dwellings for Sales #4 and #5 was appropriate in the absence of sales of raised ranches. Moreover, on page 3 of the appraisal, the appraiser also referred to the subject as a newer split-level home. Therefore, the Board finds it appropriate to consider split-level dwellings as appropriate comparisons to the subject.

In summary, in the absence of the appellants' appraiser and given the board of review's criticism of the adjustment methodology, the Property Tax Appeal Board finds the nine sales presented by both parties will be examined for similarities and differences to the subject property to ascertain whether the subject property was overvalued. The Property Tax Appeal Board has given less weight to appellants' Sales #1, #2 and #3 due to the ages of the dwellings being 16 and 33 years old as compared to the 8 year old subject dwelling. The Property Tax Appeal Board finds appellants' comparables #4 and #5 and the board of review's comparable sales #1 through #4 were more similar to the subject

[5] Also, in considering the board of review's comparable sales data, the Board finds it inconsistent for the board of review to first criticize the appraiser's adjustment ratios and then apply those same adjustment ratios to the board of review's sales comparables.

in location, design, age, size, and/or features. They sold between March 2006 and October 2007 for prices ranging from $154,500 to $215,000 or from $115.96 to $160.91 per square foot of living area including land. The subject's assessment reflects an estimated market value of $199,018 or $126.92 per square foot of living area including land which is at the lower end of the range of similar sales on a per-square-foot basis. After considering adjustments to the comparables for any differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is supported and no reduction is warranted beyond the correction requested by the board of review due to an erroneous size calculation.

The Board further finds the appellants had listed the subject property for sale in early 2007 for an asking price of $235,000. The appellant William Bartolotta further testified that they rejected an offer to purchase the property for $205,000 with conditions. Both the asking price and the rejected purchase price reflect market values greater than the fair cash value reflected by the subject's assessment of $199,018. The actions of the appellants undermine their argument that the subject's assessment is excessive in relation to its fair cash value.

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: January 21, 2011

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.