



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

APPELLANT: Andrew & Sharon Leynes
DOCKET NO.: 07-04620.001-R-1
PARCEL NO.: 02-02-26-000-412

The parties of record before the Property Tax Appeal Board are Andrew & Sharon Leynes, the appellants; and the Moultrie County Board of Review, by States Attorney Marvin Hanson.

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

LAND:	\$ 4,117
FRMLAND:	\$ 276
IMPR.:	\$55,601
TOTAL:	\$59,994

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story Victorian frame dwelling containing 2,997 square feet of living area that was built in 1898. Features include a partial basement that contains 1,086 square feet of finished area, central air conditioning, a non-functioning fireplace, a four-car detached garage that contains 912 square feet, three open frame porches, and an in-ground swimming pool. The dwelling is situated on a 1.56 acre home site.

The appellants appeared before the Property Tax Appeal Board claiming overvaluation and unequal treatment in the assessment process as the bases of the appeal. In support of these arguments, the appellants offered testimony, an appraisal performed by a state licensed appraiser and an analysis of four additional comparable properties. During the hearing, the parties agreed the subject property contains 2,997 square feet of living area.

The appellants first provided testimony in connection with the history of the subject dwelling. The subject dwelling was originally located in Atwood, Douglas County, Illinois near an expanding industrial property. The appellants became aware that the dwelling was going to be demolished. The appellants subsequently purchased the dwelling in September 2003 for \$35,000 after 18 months of negotiations. The appellants agreed the sale was not an arm's-length transaction. After purchase, the appellants had the dwelling moved approximately 13 miles by truck to a new location approximately 1.5 miles west of Lovington, Moultrie County, Illinois. The cost to move the dwelling was \$30,000. The subject dwelling was then placed on a new basement foundation which cost \$32,103. A new four-car, two-story garage with connecting breezeway was constructed in 2006 for \$31,199. A new rock driveway was installed for \$2,263 and an in-ground swimming pool was added at a cost of \$16,331. Thus, the total reported cost to purchase and move the subject dwelling with placement on a new foundation plus the addition of the garage, driveway and swimming pool was \$146,896 excluding land. The appellants' appeal petition indicates the appellants purchased 8 acres of land in 1998 for \$10,500, but the appellants allocated a \$7,000 value for its 1.56 acre home site.

The appellants next presented an appraisal of the subject property prepared by David L. Johnson. Using two of the three traditional approaches to value, the appraisal report indicates the subject property has a fair market value of \$125,000 as of March 17, 2008. The appraiser was not present at the hearing for direct or cross-examination regarding the appraisal methodology and final value conclusion. At the hearing, the appellants tendered an affidavit from their appraiser in support of the comparable sales used and final value conclusion and to refute the appraisal methodology used by the board of review's appraiser. The board of review objected to the affidavit and appraisal report because Johnson was not present for cross-examination. The board of review also made a motion the strike the appraiser report from the record.

The Property Tax Appeal Board sustained the motion and finds these documents are inadmissible hearsay. The general rule is that hearsay is inadmissible in an administrative hearing. Spaulding v. Howlett, 59 Ill.App.3d 249, 251, 375 N.E.2d 437, 16 Ill.Dec. 564 (1st Dist. 1978). Hearsay evidence is an out-of-court statement offered to prove the proof of the matter asserted and is inadmissible in administrative proceedings unless it falls within one of the recognized exceptions to the rule. The Board finds none of these legal exceptions apply in this appeal. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else

told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross examined.

At the hearing, the appellants also presented an affidavit from a local real estate broker and owner of Century 21 Bagley and Associates regarding the general market climate of Lovington, Illinois to similar properties in other towns of Moultrie County. After objection by the board of review, the Property Tax Appeal Board sustained the objection as inadmissible hearsay based on the same aforementioned precepts.

In further support of the overvaluation claim, the appellants argued the subject property sold at its prior location with an unknown amount of acreage in 1994 for \$87,500; in 1998 for \$100,000; and in 1999 for \$99,000. At the time of the prior sales, the appellants argued the subject dwelling was on a nice landscaped lot with mature trees where the subject is now situated on acreage with no landscaping in a corn field. The appellants allege the dwelling is in the same average condition as at the time of sale for \$35,000. The appellants testified they did not perform any exterior improvements to justify the large increase in its assessment from its prior location in neighboring Douglas County. The appellants acknowledged the construction of a new basement foundation, which had to be constructed in order to move the dwelling to its new location. The appellant, Sharon Leynes, who is a real estate agent, testified she reviewed Multiple Listing Sheets from the past 12 months and found no similar properties near Lovington that sold for more than \$100,000 and one-half the sales sold for less than \$50,000. She testified 8 of 11 sales that occurred in Sullivan sold for more than \$100,000. She testified this paired sales study¹ shows the Sullivan/Bethany market have higher values than the Lovington market where the subject is located due to a lack of industry and a poor functioning school district.

In support of the inequity claim, the appellants submitted assessment data for three suggested comparables. They consist of two-story frame dwellings that are from 98 to 125 years old. The

¹ The appellant did not submit the Multiple Listing Sheets corroborating the testimony.

suggested comparables are located from ½ of a mile to 20 miles from the subject. One comparable has an unfinished basement and two comparables have finished basements. Two comparables contain central air conditioning, one comparable has three fireplaces and two comparables have garages that contain 672 and 768 square feet. The comparables have improvement assessments ranging from \$23,418 to \$41,070 or from \$9.13 to \$13.28 per square foot of living area. The subject property has an improvement assessment of \$75,374 or \$25.15 per square foot of living area. At the hearing, the appellants provided four additional comparables located near the subject, but are assessed for less than the subject. No descriptive information or analysis showing their similarities and dissimilarities when compared to the subject was submitted.

Based on this evidence, the appellants requested a reduction in the subject's assessment.

Under cross-examination, the appellants testified the subject's prior location was in a commercial area and the subject did not have a finished basement or pool. The appellants testified the furnace/central air conditioning and duct work had to be removed to facilitate moving the dwelling. The appellants acknowledged the subject had a new furnace and central air conditioning installed for \$8,000. The appellants testified the prior heating and cooling systems functioned properly and the replacement cost just returned the property to its prior condition. The appellants testified they also had to remove the fireplace and chimney to move the dwelling. The appellants testified approximately 50% of the plaster walls were damaged during the move, which was repaired with drywall. The appellants testified plaster walls are more valuable than drywall and may have decreased the value of the dwelling. The appellants testified the kitchen was remodeled, the interior was painted to taste and insulation was added. The appellants agreed the total acquisition costs including the purchase of the dwelling, moving the dwelling to its new location on a new basement foundation, the new garage, new heating and cooling systems, and interior improvements totaled approximately \$170,000 excluding land. However, the appellants argued the improvements just brought the property back to its original good condition. With respect to the assessment comparables, the appellants agreed they are inferior to the subject and only two are located in the Lovington area. The appellants agreed they used one comparable from Bethany, which they argued is a superior market location when compared to the subject.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment for its home site and improvement assessment totaling \$79,491 was disclosed. The subject's assessment reflects an estimated market value of \$237,004 or \$79.08 per square foot of living area including land using Moultrie County's 2007 three-year median level of

assessments of 33.54%. Based on the appraisal prepared on behalf of the board of review estimating a fair market value of \$180,000 for the subject property, the board of review offered to reduce the subject's assessment to \$59,994, with an improvement assessment of \$55,601 or \$18.55 per square foot of living area. The proposed assessment reduction was rejected by the appellants.

In support of the subject's assessment, the board of review submitted a letter prepared by the Chief County Assessment Officer; property record cards; an assessment analysis detailing three suggested equity comparables; an appraisal of the subject property; and a copy of a newspaper article regarding the subject property published in the Decatur Herald and Review on March 25, 2007.

Cynthia S. Kidwell, Chief County Assessment Officer and clerk of the board of review was called as a witness. Kidwell was qualified as an expert in the field of real estate valuation. Under questioning by the appellants, Kidwell acknowledged she is not a professional appraiser. Kidwell provided testimony with respect to the uniformity analysis submitted on behalf of the board of review. The comparables consist of two-story frame or brick dwellings that were built from 1918 to 1979 and are located 10 or 11 miles from the subject. The comparables have unfinished basements, central air conditioning, one fireplace and garages that contain from 576 to 780 square feet. Comparable 2 has swimming pool and two open frame porches. The comparables have improvement assessments ranging from \$38,546 to \$57,580 or from \$17.39 to \$19.53 per square foot of living area. The subject property has an improvement assessment of \$75,374 or \$25.15 per square foot of living area. Again, the board of review proposed to reduce the subject's improvement assessment to \$55,601 or \$18.55 per square foot of living area.

Under cross-examination, Kidwell testified the comparables are newer in age than the subject. Kidwell testified she did not utilize comparables from the Lovington area because there were no similar residential properties. Kidwell also testified she did not believe there was that much difference in market values between Lovington and the Sullivan/Bethany markets based on sale ratio studies. She further explained that due to the new and added improvements to the dwelling, such as its new basement foundation, garage and interior improvements, the subject dwelling's effective age was adjusted to 1980 from 1898. She agreed the Lovington School District is going through some financial difficulties and there is a lack of stable industry. She also agreed comparables 2 and 3 are approximately 800 square feet smaller in size than the subject, but were the best comparables she could find.

The next witness called on behalf of the board of review was David A. DeRocchi, licensed appraiser by the State of Illinois. DeRocchi was qualified as an expert in real estate valuation.

The appraiser used one of the three traditional approaches to value in concluding the subject property has a fair market value of \$180,000 as of January 1, 2007.

Under the sales comparison approach, the appraiser utilized five suggested comparable sales located from 5.16 to 10.17 miles from the subject. The comparables consist of two-story frame or masonry dwellings that contain from 2,039 to 2,636 square feet of living area that are situated on sites ranging in size from 2.5 to 7.96 acres. The dwellings range in age from 90 to 125 year old. One comparable has a crawl space foundation and four comparables have unfinished basements. The comparables have central air conditioning; three comparables have one or two fireplaces; and three comparables have two-car attached garages. Three comparables have out-buildings. Other features include various decks porches and patios. The comparables sold for prices ranging from \$130,000 to \$170,000 or from \$55.34 to \$80.92 per square foot for living area including land. The appraiser adjusted the comparables for differences to the subject in land area, room count, living area, finished basement area, garage area, pole buildings, and features such as swimming pools and fireplaces. The adjustments resulted in adjusted sale prices ranging from \$172,395 to \$194,205 or from \$67.20 to \$89.29 per square foot of living area including land. Based on these adjusted sales, the appraiser concluded the subject property has a fair market value of \$180,000 or \$60.06 per square foot of living area including land.

Under direct-examination, the appraiser testified he inspected the subject property and measured the exterior of the dwelling. He calculated the subject dwelling has 2,997 square feet of living area. He described the basement as 90% finished, including a recreation room, two bedrooms and two bathrooms. He observed a remodeled kitchen with new hardwood flooring. The appraiser testified the rural nature of properties near Lovington in comparison to rural properties in Sullivan/Bethany show no measurable differences in market value.

Under cross-examination, the appraiser testified properties located in different school districts do not show a measurable difference in market value. The concept of supply and demand was also discussed. The appraiser further testified there were no similar comparable sales located in the Lovington market for comparison to the subject. The adjustment amounts for garage space were discussed, noting the subject's newer larger garage, which has a second level storage loft. Based on his inspection and upgrades, the appraiser concluded the subject property has an effective age from 5 to 30 years or from 1977 to 2005.

Based on the evidence presented, the board of review requested a reduction in the subject's assessment to reflect the DeRocchi appraisal.

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 this appeal. The Property Tax Appeal Board further finds a reduction in the subject property's assessment is warranted commensurate with the stipulation offer by the board of review.

The appellants argued the subject property was overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the board of review's evidence met this burden of proof.

The appellants submitted an appraisal report estimating the subject's fair market value of \$125,000 as of March 17, 2008. In addition, the appellant submitted some of the cost to acquire the subject dwelling, the cost to move the subject dwelling and cost for additional items such as the new basement foundation, garage, swimming pool and driveway. The appellants did not include the cost or value of the new heating and cooling systems, including duct work, new remodeled kitchen, new drywall, painting and personals labor. The board of review submitted an appraisal of the subject property estimating a fair market value of \$180,000 as of January 1, 2007.

The Property Tax Appeal Board finds the best evidence of the subject's fair market value is the appraisal submitted by the board of review for \$180,000 using the sales comparison approach to value. The Property Tax Appeal Board finds the board of review's appraiser provided competent, logical and professional testimony regarding the reasonable application of the adjustment amounts and final value conclusion. Based on this record, the Property Tax Appeal Board finds the subject property has a fair cash value of \$180,000 as of January 1, 2007. The subject's assessment reflects an estimated market value of \$237,004, which is not supported by the most credible valuation evidence contained in this record. Therefore a reduction in the subject's assessed valuation is supported.

The Property Tax Appeal Board gave no weight to the appraisal submitted by the appellants. The appellants' appraiser was not present at the hearing to provided direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Furthermore, the board finds the acquisition costs of over \$170,000 as incurred by the appellants in this appeal clearly undermines the value conclusion of \$125,000 as determined by the appellants' appraiser.

The appellants allege the dwelling is in the same average condition as the time of sale for \$35,000. The appellants testified they did not perform any exterior improvements to justify the large increase in its assessment from its prior

location in the neighboring county. In Cherry Bowl v. Property Tax Appeal Board, 100 Ill.App.3d 326, 331 (2nd Dist. 1981), the appellate court held that evidence of assessment practices of assessors in other counties is inadmissible in proceedings before the Property Tax Appeal Board. The court observed that the interpretation of relevant provisions of the statutes governing the assessment of real property by assessing officials in other counties was irrelevant on the issue of whether the assessment officials within the particular county where the property is located correctly assessed the property.

The appellants further argued the subject property was inequitably assessed. The Illinois Supreme Court has held that 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). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the evidence submitted, the Board finds the appellants have not overcome this burden and no further reduction is warranted.

The Board further finds the record contains assessment information for six suggested comparables. The suggested comparables have varying degrees of similarity and dissimilarity when compared to the subject. They have improvement assessments ranging from \$23,418 to \$57,580 or from \$9.13 to \$19.53 per square of living area. The subject property has an improvement assessment after the reduction granted for market value considerations of \$55,601 or \$18.55 per square foot of living area. After considering adjustments to the comparables for differences when compared to the subject, such as age, size, and features, the Board finds the subject's reduced improvement assessment is well justified. Therefore, the Board finds no further reduction in the subject's improvement assessment is warranted.

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 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). Although the comparables disclosed that properties located in varying geographic areas of the county 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. For the foregoing reasons, the Board finds that the appellants have not proven by clear and convincing evidence that the subject property is inequitably assessed.

Based on this analysis, the Property Tax Appeal Board finds the evidence contained in this record demonstrated the subject property was overvalued by a preponderance of the evidence and a reduction 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

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.