FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Jack and Karin Harrison
DOCKET NO.: 07-05096.001-R-1
PARCEL NO.: 18-014-073-00

The parties of record before the Property Tax Appeal Board are Jack and Karin Harrison, the appellants, and the Jo Daviess County Board of Review.

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

LAND:	$23,333
IMPR.:	$61,088
TOTAL:	$84,421

Subject only to the State multiplier as applicable.

ANALYSIS

The subject 20,000 square foot parcel is improved with a 17-year-old, one-story frame dwelling. The dwelling contains 1,092 square feet of living area and features a full walkout basement of which 892 square feet is finished. The home also has central air conditioning, a fireplace, and a two-car attached garage of 440 square feet of building area. The property is located in Apple River, Thompson Township, Jo Daviess County and also has non-taxable boat dock rights associated with the property.

The appellant Jack Harrison, an Illinois licensed attorney, appeared before the Property Tax Appeal Board on behalf of the appellants Jack and Karin Harrison arguing that the fair market value of the subject property was not accurately reflected in its assessment. In support of that argument, a six-page market analysis was presented. Appellant Harrison testified that he had "someone help him" prepare the data in the market analysis, but that Harrison came up with the conclusion of value set forth in the market analysis.

The market analysis consists of five comparables located from .3 to 5.9-miles from the subject property, but all of the properties have an address within Apple River.[1] The appellant Harrison also testified that the individual who assisted him in preparing this analysis is regularly employed by an appraiser and performs data gathering functions for that professional appraiser.

The comparable parcels in the market analysis range in size from 15,855 to 33,303 square feet of land area. Each property is improved with a one-story ranch of frame or frame and masonry construction ranging in age from 3 to 31 years old and ranging in size from 1,092 to 1,456 square feet of living area. The comparables feature full walkout basements, four of which have finished area, central air conditioning, and one or two fireplaces. Three comparables have one-car or two-car garages. These properties sold between March 2006 and November 2007 for prices ranging from $150,900 to $196,500 or from $103.64 to $166.38 per square foot of living area, land included.

Appellant Jack Harrison also testified that as shown in the market analysis, he made adjustments to the comparables to account for differences in location, lot size, view, age, room count, dwelling size, basement finish, number of bedrooms and other amenities. In testimony, Harrison could not articulate the basis for the individual adjustments made (i.e., a monetary adjustment per year for age differences) other than having relied upon the assistance from another individual and having examined other appraisals.

After the adjustments Harrison's market analysis reflected adjusted comparable sales prices ranging from $151,400 to $190,000 or from $104.01 to $173.53 per square foot of living area, land included. With most weight accorded to comparables #3 and #4, the market analysis opined an estimated market value for the subject of $190,000 or $174.00 per square foot of living area including land. Based on the foregoing market analysis and conclusion of value, the appellants requested a total assessment reduction to $63,333.

During cross-examination regarding the market analysis, appellant Jack Harrison could not further articulate the basis for adjusting a 31 year old comparable dwelling by adding $8,000 and also adjusting both a 3 year old and a 5 year old comparable by deducting $8,000. There was no further explanation for a 10 year old dwelling having a $4,000 downward adjustment. In addition, adjustments for decks which varied from $500, $2,000 and $3,000 purportedly came from a software program accessed by the person who assisted Harrison in the market analysis. Harrison was not

[1] In comments on the market analysis, it is noted that "mileage between the subject and the comparables exceeds the usually desired one mile radius because of the lake, woods, and common areas that are between, but any differences in appeal have been noted in the analysis."

able to further explain the basis for the variations in adjustments as purportedly determined by this computer program.

In answer to the questions of the Hearing Officer, appellant Harrison acknowledged that he is not a licensed real estate appraiser, but contended that he has a reasonable amount of valuation knowledge. He noted that besides being a licensed attorney, he has an MBA in finance, a CPA certificate, and has about 20 years of experience as a tax attorney dealing with valuations of various types.

The Board of review presented "Board of Review Notes on Appeal" wherein the subject's final equalized assessment of $91,660 was disclosed. The subject's assessment reflects an estimated market value of $276,584 or $253.28 per square foot of living area, land included, using the 2007 three-year median level of assessments for Jo Daviess County of 33.14%.

In support of the subject's estimated market value as reflected by its assessment, the board of review presented a memorandum along with various supporting documents. In the memo, the board noted that the subject property is located in Apple Canyon Lake Subdivision, a resort community, with a private 480-acre lake, golf course, campground and property owner's clubhouse. In response to the appellants' evidence, the board also noted that three of the comparables presented were much newer than the subject and one comparable was much older than the subject dwelling. The board representative also pointed out that appellants' comparable #4 was said to have basement finish, however, according to the assessor's records the basement was finished after the sale that appellants reported in the market analysis.

In a two-page grid analysis, the board of review presented sales of eight comparable improved properties located in Apple Canyon Lake. The lots varied in size from 12,560 to 33,200 square feet. The dwellings were one-story frame exterior construction ranging in age from 5 to 16 years old. The dwellings range in size from 972[2] to 1,664 square feet of living area and feature full basements, five of which have finished areas ranging from 216 to 1,344 square feet. Additional features include central air conditioning, a fireplace and a garage ranging in size from 480 to 624 square feet of building area. The sales occurred between April 2005 and October 2006 for prices ranging from $227,000 to $280,000 or from $144.77 to $272.63 per square foot of living area, land included.[3]

[2] See footnote 3.

[3] The board of review reported that its comparable #1 consisted of only 972 square feet of living area at the time it sold meaning its sale price per square foot including land was actually $272.63; it was subsequently expanded to 1,212 square feet of living area.

In addition to support the subject's land value, the board of review presented a second grid analysis of seven vacant land sales located in Apple Canyon Lake. The board representative noted the comparables were a similar distance from the lake like the subject. Based upon the underlying property record cards, the lots ranged in size from 14,352 to 21,432 square feet; these parcels sold between May 2005 and November 2007 for prices ranging from $30,000 to $90,000 or from $2.01 to $4.20 per square foot of land area. The subject parcel has an estimated market value of $70,407 based on its equalized land assessment or approximately $3.52 per square foot of land area.

Based on its market analysis and the foregoing data, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

In rebuttal, the appellants presented an appraisal of the subject property, noted no true dispute in the land/building allocation of the assessment so long as the total related to 1/3 of fair market value, addressed the eight improved comparables presented by the board of review, and put forth evidence that the 2008 assessment of the subject property was reduced.

As to the appraisal, the board of review moved to strike consideration of the document as inappropriate rebuttal evidence pursuant to Section 1910.66 of the Official Rules of the Property Tax Appeal Board (86 Ill. Admin. Code, Sec. 1910.66). In a reply, the appellants conceded this issue. Therefore, the appellants' appraisal submitted in rebuttal will not be considered on this record.

As to the criticisms of the board of review's eight sales comparables, the board of review moved to strike consideration of the appellants' rebuttal argument regarding boat dock rights associated with seven of the board's comparables. In seeking to strike the data, the board contended that the issue of boat dock rights had not been raised in the appellants' initial appeal filing and therefore was inappropriate new rebuttal evidence.

Appellants replied to the board's motion to strike that the crux of the issue concerned comparability of the board's comparables. Appellants further argued that appellants' comparable properties did not have associated boat dock rights whereas those of the board of review did have such personal property rights with no indication of an adjustment for such non-assessable rights.

The Property Tax Appeal Board finds that the appellants' criticism of the boat dock rights issue with regard to the board of review's comparables is suitable rebuttal data. By definition, rebuttal evidence is data submitted to "explain, repel, counteract or disprove facts given in evidence by an adverse party and must tend to explain or contradict or disprove evidence offered by an adverse party." (86 Ill. Admin. Code, Sec. 1910.66(a)). The value associated with boat dock rights presented by the appellants within the rebuttal and as argued at

hearing are questions of weight of the evidence presented, but does not make the argument inadmissible rebuttal.

The appellants in rebuttal asserted that it is common in Apple Canyon Lake for properties to be sold and marketed with rights to a transferable association-owned boat dock. Appellants asserted these dock rights are quite valuable due to the supply and demand of docks on the lake with a long waiting list of property owners desiring to lease a dock. Except for board of review comparable #2, the appellants contend the other seven comparable improved sales have rights to a transferable association-owned boat dock associated with the sales resulting in inflated sales prices. Appellant further argue that those rights, as personal property, are not subject to *ad valorem* property taxes. Harrison testified that he determined these seven comparables have boat dock rights based on conversations with the homeowners' association and a local Realtor. Appellants further contended in their rebuttal that the property record cards for these properties indicate that either no amount was attributed to boat dock rights, or from $2,000 to $3,000 of the sales price was attributed to personal property. Appellant Harrison further testified and argued in rebuttal that based on conversations with two local Realtors, from 2005 to 2006 transferable boat dock rights were trading for amounts from $20,000 to $40,000 depending on the location of the dock in relation to the marina and proximity to the associated parcel. From this data, the appellants assert that an average value of $30,000 should be deducted from each of the board of review's seven improved sales comparables to account for the personal property of boat dock rights resulting in sales prices ranging from $197,000 to $250,000.

In rebuttal, the appellants further argued that no adjustments were made to the board of review's comparables to account for differences between the properties and the subject. Appellants contend the board's comparables are newer and larger, both factors meaning the comparables are "more expensive" than the subject. For these reasons, appellants suggested that downward adjustments of $8,000 for age and $6,000 for larger size should also be taken from the board of review's sales comparables. After the deduction for boat dock rights, the additional $14,000 downward adjust results in adjusted sales ranging from $183,000 to $236,000.

Appellants in written rebuttal also examined each of the board's eight comparables for differences from the subject and assigned "bias factors" for the differences. Namely, the comparables were all similar to the subject in terms of story height, exterior construction, central air conditioning, heating, and number of fireplaces, but differed in eight other features. For each property and the identified features, the appellants assigned bias factors and concluded that most of the comparables have superior features or attributes as compared to the subject. From this analysis, appellants concluded the board's comparables favored assigning an inflated value to the subject property. In

addition, appellants pointed out that six of the eight comparable sales presented by the board of review sold prior to mid-2006 "when the real estate market was at its peak." Appellants contend a negative slide in the subject's area real estate market did not occur until the second half of 2006.

At hearing, appellant Harrison also contended that the three highest sale prices presented by the board of review were for properties that have lake views on a year-round basis for two of the properties and a seasonal lake view for one of the properties. Appellant argued such a view is superior to the subject property's "seasonal" lake view in that the lake can only be seen from the subject property in the winter in the absence of leaves on the trees (color photograph of the lake view from the property in winter was included in the market analysis). Appellant Harrison acknowledged that making a value adjustment for the view difference is difficult.

Lastly in rebuttal, appellants noted that the subject's 2008 assessment was reduced to $69,415 reflecting an estimated market value of approximately $208,245. The board of review sought to strike this evidence as irrelevant to the subject's 2007 assessment determination.

The Property Tax Appeal Board finds that the subject's 2008 assessment is admissible evidence and the board of review was allowed to reply at hearing to the market conditions relevant to 2007 and 2008 valuations of the subject property. In this regard at hearing, Supervisor of Assessments Donna Berlage testified that the subject's market area peaked in mid-2006 and remained stable thereafter in 2006; there was some decline in 2007 in the market, but the decline increased in 2008 and became an even bigger decline in 2009. Therefore, the board of review contended that the subject's 2008 assessment would not be reflective of the 2007 market in the subject's area.

In surrebuttal as to the boat dock issue, the board of review representative noted the property record cards for seven of the eight comparables presented by the board of review reference amounts itemized for personal property as set forth on the recorded Real Estate Transfer Declaration Sheets related to the sales. Those reported personal property amounts range from $2,000 to $10,000 and were each under 5% of the sale price which would require itemization of the items of personal property transferred.

As a reply, appellant Harrison noted that in 2007 there was a waiting list of over 100 persons trying to get a boat dock. Therefore, Harrison questions the validity of the data reported on the Transfer Declarations regarding the personal property included in the sale prices of the properties. He also contended that Realtors were marketing docket rights in their advertisements as a valuable commodity.

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 the subject property is 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). After an analysis of the evidence, the Board finds the appellants have overcome this burden.

The record contains thirteen suggested comparable sales for the Property Tax Appeal Board's consideration. The Board has given little weight to the appellants' adjustments to their five comparable sales given the appellants' inability to articulate the basis for the adjustments. Similarly, the Board has given little weight to appellants' contention that the board of review's comparables require specific downward value adjustments for boat dock rights, age, and/or size differences since again none of those adjustments were supported by specific market related data, paired sales analyses, or other empirical data relied upon in real estate valuation techniques.

In light of the foregoing analysis, the Property Tax Appeal Board finds appellants' comparable #5 and board of review comparables #1, #3, #5 and #6 were most similar to the subject in design, age, size, and/or features. They sold for prices ranging from $196,500 to $280,000 or from $166.24 to $272.63 per square of living area including land. The subject's assessment reflects an estimated market value of $276,584 or $253.28 per square foot of living area including land. The subject's estimated market value does not appear justified given, in particular, the May 2006 sale price of board of review comparable #6 which was closest in age, size, design and amenities to the subject. 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 not supported and a reduction is warranted.

As a final point, the Board finds the appellants submitted the subject parcel's Notice of Final Decision for the 2008 assessment year. The notice lists the subject's 2007 equalized assessment of $97,727 and the board of review's decision to reduce the assessment for 2008 to $69,415. The final decision notice also disclosed the taxpayer may appeal the assessment within 30 days of the date of the notice to the Illinois Property Tax Appeal Board. The Board finds this assessment change notice lends further support that the subject's assessment should be reduced for the 2007 assessment. In 400 Condominium Association v Tully, 79 Ill. App. 3d 686 (1st Dist. 79), the court found that a substantial reduction in the tax bill is indicative of the invalidity of the prior tax year's assessment. (See also Hoyne Savings & Loan Association v. Hare, 60 Ill. 2d 84, 90, 322 N.E.2d 833, 836 (1974)). The Board finds a substantial reduction in the

subject's assessment for the subsequent year based on market value changes lends further support to the invalidity of the prior year's assessment given the sales data submitted on this record.

In conclusion, the Board finds that a reduction in the subject property's assessment 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.

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 22, 2010

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.