



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

APPELLANT: Kevin Smith
DOCKET NO.: 07-05344.001-R-1
PARCEL NO.: 18-010-048-00

The parties of record before the Property Tax Appeal Board are Kevin Smith, the appellant, 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: \$9,380
IMPR.: \$50,272
TOTAL: \$59,652**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 15,942 square foot parcel that is improved with a one-story single family frame dwelling with 1,288 square feet of living area that was completed in 2006. Features of the home include an unfinished walkout basement, central air conditioning, a fireplace, and a one-car basement garage of 300 square feet of building area. The property is located in Apple River, Thompson Township, Jo Daviess County.

The appellant appeared before the Property Tax Appeal Board contending that both the land and improvement assessments of the subject property were excessive in light of the land purchase price, actual construction costs, and an appraisal of the subject property. In his written submission, the appellant explained that the subject parcel was purchased in August 2005 for \$8,000.¹ The dwelling was constructed on the parcel and deemed suitable for occupancy on February 22, 2006. The building was reported to

¹ The property record card for the subject property submitted by both parties also references this land purchase price of \$8,000.

cost \$151,400. The appellant testified the foregoing costs were to make the dwelling "turn key." The appeal documentation included the 'closing statement' with the contractor of \$138,000, plus an itemized attachment setting forth expenses for septic, site improvements including landscaping, lighting, patio and sidewalk resulting in a total expenditure for the dwelling of \$151,400. The appellant argued that the foregoing construction related costs along with the cost of the land should form the basis for the subject's assessment since they reflect a current fair cash value of the investment.

Appellant also submitted an appraisal report prepared by Michael W. Doyle of Homestead Appraisals, Ltd. with a valuation date of January 1, 2007 that expresses an estimated market value of \$180,000. The appraiser, who was not present to testify at the hearing regarding the report, utilized both the cost and sales comparison approaches in arriving at an opinion of value for use with a tax assessment appeal.

In the written report, the appraiser described the subject area as a weekend and second home development of over 800 dwellings. With a dwindling supply, the appraiser noted that lakefront and lake view lots have increased in value with lots away from the lake being stable to increasing in value slightly.

Under the cost approach, the appraiser estimated the subject's land value at \$21,000. Based on data from local contractors, the appraiser determined a reproduction cost new for the subject dwelling of \$159,396. External depreciation of \$7,970 was calculated resulting in a depreciated value of improvements of \$151,426. A total value for site improvements of \$10,000 was provided. Adding together the land value, the depreciated improvement value, along with the site improvements, resulted in a total value by the cost approach of \$182,426.

Under the sales comparison approach, the appraiser used sales of three comparable homes located between .67 and .99-miles from the subject. The comparables consist of one-story dwellings of frame or frame and masonry exterior construction which were new or 1 year old. The comparables ranged in size from 1,160 to 1,645 square feet of living area and featured basements, one of which was 95% finished and one of which was 10% finished. Each comparable had central air conditioning, a fireplace, and a one or two-car garage. The comparables sold between April and October 2006 for prices ranging from \$187,500 to \$229,500 or from \$139.51 to \$166.38 per square foot of living area including land. In comparing the properties to the subject, the appraiser made adjustments for land area, view, quality of construction, age, dwelling size, room count, basement size and finish, and other amenities. The appraiser explained Sales #1 and #3 were site built homes whereas the subject and Sale #2 were modular homes resulting in a quality adjustment for the site built homes. This analysis resulted in adjusted sales prices for the comparables ranging from \$175,440 to \$185,740 or from \$106.65 to \$160.12 per square foot of living area including land. From this process,

the appraiser estimated a value for the subject by the sales comparison approach of \$180,000 or \$139.75 per square foot of living area including land.

In reconciling the conclusions of value, the appraiser weighed the sales comparison approach more heavily and within that approach, noted that Sale #1 was the most weighted sale due to the least amount of adjustments. Based on this analysis, the appraiser opined the subject's fair market value as of January 1, 2007 was \$180,000.

As part of the appeal postmarked on July 7, 2008, the appellant submitted two separate Notices of Final Decision issued by the Jo Daviess County Board of Review. Each notice was dated June 10, 2008. Each Notice advised the appellant that the decision could be appealed to the Illinois Property Tax Appeal Board within 30 days of the date of notice. One notice indicated the reason for change was "revalued" and determined a total assessment of \$66,672. The other notice indicated the reason for change was "equalization" and determined after equalization the total assessment was \$75,046.

Based on the cost of the land and the construction costs, and as supported by the appraisal, the appellant requested the subject's assessment be reduced to \$53,132 or a market value of approximately \$159,400.

On cross-examination, the appellant confirmed that the stated construction costs included the concrete, basement foundation and excavation costs along with the furnace work, electrical work, duct work, and fireplace. Appellant testified the construction contract cost of \$138,000 was "turn key except for septic and landscaping." Then by an attachment to the appeal, appellant itemized various additional expenses including septic, landscaping, ceiling fans, and patio/sidewalk. Appellant also explained that the requested assessment reduction in the Residential Appeal form was based on the total cost of construction plus the land cost as supplied in the appeal.

The board of review submitted its "Board of Review Notes on Appeal" wherein it reported the subject's final equalized assessment was \$69,562. In a memorandum attached to the "Notes on Appeal" and referenced as Exhibit E, the board of review asserted that a Certificate of Error was issued reducing the total assessment to \$69,562² and therefore the appellant had incorrectly reported the subject's final assessment in this

² The Property Tax Appeal Board takes notice that the Attorney General of the State of Illinois has asserted that a county board of review may not alter an assessment once its decision has been properly appealed to the Property Tax Appeal Board, nor may it alter an assessment by certificate of error or by any other procedure after the Property Tax Appeal Board has rendered its decision. 1977 Ill.Atty.Gen.Op. 188 (October 24, 1977), 1977 WL 19157 (Ill.A.G.)

appeal as having been \$75,046. The board of review submitted a copy of the Certificate of Error (Exhibit E) for the 2007 tax year, dated August 13, 2008, disclosing the total assessment was reduced from \$75,046 to \$69,562. The board of review noted the correction was needed due to a computer entry error which was discovered before tax bills were printed.

Given the reduced assessment of \$69,562, the subject's assessment reflects an estimated market value of \$209,903 or \$162.97 per square foot of living area including land using Jo Daviess County's 2007 three-year median level of assessments of 33.14%.

At hearing the board of review representative did not dispute the construction cost data submitted by the appellant, but argued that rather than focusing on the cost of construction, the value of the property is determined by what the property would bring in an open market transaction if offered for sale. Thus, the board urges consideration of the comparable sales data submitted by both parties along with consideration of the appellant's appraisal.

In support of the land value, the board of review presented a grid analysis of six comparable sales of vacant lot located in the subject's subdivision. As shown on the underlying property record cards, the lots range in size from 12,750 to 26,750 square feet of land area. The lots sold between July 2004 and December 2005 for prices ranging from \$21,000 to \$35,000 or from \$0.81 to \$2.00 per square foot of land area. The subject's equalized land assessment of \$8,333 reflects an estimated market value of \$25,145 or \$1.58 per square foot of land area. Therefore, the board of review contended that the subject's assessment was correct and reflective of market values of neighboring properties and contended that the land assessment should not be reduced to reflect the 2005 purchase price of \$8,000 for the subject parcel.

In further support of the subject's assessment, the board of review presented a grid analysis of five comparable sales of improved parcels. Each of the properties was located in the subject's subdivision and the parcels ranged in size from 12,560 to 25,620 square feet of land area. The dwellings were one-story frame homes that ranged in age from 2 to 7 years old. The dwellings ranged in size from 1,160 to 1,650 square feet of living area and featured full unfinished basements, central air conditioning, and a fireplace. Four of the comparables have an attached garage which is assessed by the assessing officials and one of the comparables has a basement garage, like the subject, which the assessing officials "do not charge extra for." The comparables sold between September 2004 and October 2006 for prices ranging from \$190,000 to \$238,000 or from \$139.09 to \$184.07 per square foot of living area including land.

Based on the foregoing evidence, the board of review requested confirmation of the subject's equalized assessment.

In written rebuttal, the appellant argued that the 2008 assessment of the subject property was reduced to \$61,799 or a market value of approximately \$185,397.

In rebuttal at hearing, appellant noted that lot values may be dependent upon the soil composition of the lot which determines the type of septic system necessary for the property. Appellant contended that with sufficient sand, a septic system may cost only \$2,500 whereas, without the sand base, the cost of the septic system may rise to \$8,000 as it did for the subject parcel.

In surrebuttal, the board of review addressed the 2008 assessment reduction for the subject property contending that area market values were rising until about mid-2006 at which time the values began to level-off and stabilize. In 2007, the representative contended that market values began to show some slight decrease and 2008 showed a further decrease. The representative also acknowledged that 2009 market values were showing a further decrease. Therefore, the board of review contends that the 2008 assessment reduction was reflective of the market at that time, but such reduction would not be appropriate for 2007 given the market data in the area.

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 assessment.

The appellant contends the subject dwelling was overvalued as of January 1, 2006. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 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 documentation evidencing the cost of construction. 86 Ill. Admin. Code, Sec. 1910.65(c)(3). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant argued the value of the improvements was excessive in light of the costs incurred to purchase the land, build the dwelling, install septic and landscaping as of February 22, 2006. The appellant also submitted an appraisal of the subject property that was prepared by a licensed appraiser and expresses an estimated market value of \$180,000 as of January 1, 2007. The Property Tax Appeal Board finds the best evidence of the subject's market value contained in this record is the appraisal submitted by the appellant. In reviewing the appraisal report, the Board finds the appellant's appraiser utilized three similar comparable sales that occurred in 2006, which was reportedly the peak of the area market prices. The appraiser adequately adjusted the comparable sales for differences when compared to the subject for land area, view, quality of construction, age, dwelling size, room count, basement size and finish, and other

amenities in arriving at the final value conclusion of \$180,000. Moreover, the opinion of value in the sales comparison approach was further supported by the appraiser's analysis in the cost approach that included a determination that as of January 1, 2007 the subject parcel had a land value of \$21,000. This land value opinion is further supported by the land sales data submitted in this record by the board of review. Furthermore, the appraiser's opinion of value expressed in the cost approach of \$182,426 further supports the final value conclusion and the cost components in the appraisal are also supported by the actual construction costs presented by the appellant, with the possible exception of \$10,000 for site improvements. The board of review provided no credible evidence to refute the appraiser's final value conclusion, and in fact at hearing, urged consideration of the sales data along with the appraisal.

The evidence further revealed that the appellant timely filed an appeal directly with the Property Tax Appeal Board as authorized by two separate Notices both dated on June 10, 2008. While one notice was issued due to equalization and would have limited the relief available in this appeal (see 86 Ill.Admin.Code §1910.60(a) and 35 ILCS 200/16-180), the other notice from which appellant filed the instant appeal did not have any limiting factors on the relief that could be granted. As such, the Property Tax Appeal Board finds that it has full jurisdiction to determine the correct assessment of the subject property, not limited to only removal of the equalization factor that was issued on the same date as the original revaluation notice.

In conclusion, the Property Tax Appeal Board finds the appellant established that the subject property was overvalued by a preponderance of the evidence. Therefore, the Board finds the subject's assessment as established by the board of review, even after issuance of the Certificate of Error, is incorrect and a reduction is warranted. Since fair market value has been established, the 2008 three-year median level of assessments for Jo Daviess County of 33.14% shall apply.

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 M. Louie

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: October 22, 2010

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.