FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: William Linz
DOCKET NO.: 07-05457.001-R-1
PARCEL NO.: 18-005-102-00

The parties of record before the Property Tax Appeal Board are William Linz, 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:	$35,000
IMPR.:	$0
TOTAL:	$35,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is a vacant parcel of 17,494 square feet in Apple River, Thompson Township, Jo Daviess County. The property is located in Apple Canyon Lake Subdivision, a resort community or planned unit development with a private 480-acre lake, golf course, tennis courts, swimming pool, campground, marina, restaurant at the lake, and a property owner's clubhouse.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted an appraisal prepared by Michael W. Doyle of Homestead Appraisals, Ltd. who utilized the sales comparison approach to value in arriving at an opinion of value.

The appraiser concluded an estimated market value of $57,000 for the subject parcel as of January 1, 2007. The purpose of the appraisal was to determine market value for the appellant to use in a property assessment complaint only. As to the subject's area, the appraiser noted there was an over-supply of properties

noting that the resale market for homes in Apple Canyon Lake has been slow for the past couple of years. The area was described as a secondary home market for Chicago area buyers. Lake front lots were the most valuable in the development and have steadily increased in value as their supply has dwindled whereas values away from the lake have remained stable. The appraiser noted that the number of listings have increased as have the number of days on the market. He further noted that comparables with lake views were very limited at the time of the report.

The parcel was described as being a gently rolling interior lot with road access. There are open views at the front of the lot and thick and heavily wooded views at the rear of the lot with the lake behind all the woods, but the woods are thick and would need to be thinned to view the lake. The parcel was described as a good building lot with a dwelling to be situated toward the rear of the lot like neighboring properties. The lot is of average size for the area and mostly rectangular with adequate drainage.

In the sales comparison approach, the appraiser used three sales of vacant parcels located between 0.26 and .72-miles from the subject property and said to be in the same general vicinity of the lake. The comparable parcels range in size from 15,163 to 138,560 square feet of land area. Two comparables were described like the subject as "good/bay" and one was described as "average/north end." Each parcel was similar to the subject's terrain being flat to gentle slope and each was described as "open/wooded" like the subject. Sale #1 has an "association dock" and Sale #3 has a "Marina Dock."[1] These parcels sold between November 2005 and September 2006 for prices ranging from $60,000 to $145,000 or from $0.91 to $4.95 per square foot of land area. In comparing the comparable properties to the subject, the appraiser made adjustments for date of sale, location, size, and dock rights. The analysis resulted in adjusted sales prices for the comparables ranging from $55,782 to $58,366 or from $0.41 to $3.85 per square foot of land area. From this process, the appraiser estimated a value for the subject by the sales comparison approach of $57,000 or $3.26 per square foot of land area. The appraiser noted that he weighted Sale #1 most because it had the fewest adjustments.

The evidence further revealed that the appellant did not file a complaint with the board of review, but filed this appeal

[1] The appraiser remarked that association boat docks are not owned by individual property owner, but are the property of the owners association and leased to individual property owners; if the lease is not renewed at the beginning of each calendar year, the boat dock reverts back to the association and any money that was paid to purchase the dock is not refundable. Therefore, the appraiser subtracted the docks as personal property from the sale price to compare similar units of value. Sale #3 with a Marina dock was said to have highly sought after in location and therefore had a higher contributory value.

directly to the Property Tax Appeal Board following receipt of the notice of an equalization factor.[2] Based on this evidence, the appellant requested a reduction in the subject's total assessment to $34,000 which would reflect a market value of approximately $102,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final equalized assessment of $39,396 was disclosed. The final equalized assessment of the subject property reflects a market value of $118,877 or $6.80 per square foot of land using the 2007 three-year median level of assessments for Jo Daviess County of 33.14%. After reviewing the appellant's evidence, the board of review submitted data regarding two of the sales in the appraisal and a grid analysis of three comparable sales to support the subject's estimated market value as reflected by its equalized assessment.

As to Sales #1 and #3 in the appraisal, the board of review presented copies of the applicable Real Estate Transfer Declarations noting that no amount for personal property was declared as part of the purchase price. The board of review contended that boat docks are owned by the Apple Canyon Lake Property Owner's Association and leased to property owners, but the majority of the boat docks are transferable, meaning the property owner can transfer the lease to the new owner when the lot is sold. The board of review further acknowledged that if the property owner does not pay the dock fees, then they lose their lease on the dock. Based on this analysis, the board of review contended the adjustments made by the appraiser as to boat dock rights for Sales #1 and #3 were not appropriate.[3]

The board of review's three comparables were located in Apple Canyon Lake subdivision. The comparable parcels ranged in size from 18,000 to 52,032 square feet of land area. The parcels sold between November 2004 and September 2005 for prices ranging from $112,000 to $163,600 or from $3.14 to $6.22 per square foot of land area. Based on this evidence, the board of review requested confirmation of the subject's equalized assessment.

After reviewing the record 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 Board further finds that a reduction in the subject's assessment is warranted.

The appellant 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

[2] The Notice dated June 10, 2008 raised the subject property's assessment from $35,000 to $39,396 due to application of the equalization factor.

[3] Based on the Real Estate Transfer Declaration, Sale #3 which sold for $145,000, much higher than the other two sales, was not advertised for sale.

1256 (2nd Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted.

The Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of $57,000 as of the valuation date at issue, while the board of review submitted three comparable sales from the subject's subdivision that occurred in 2004 and 2005 along with criticizing the appraiser's adjustment for boat dock rights. The most similarly sized comparable set forth by the board of review sold in November 2004 for $112,000 or $6.22 per square foot of land area which is substantially lower than the subject's estimated market value of $118,877 or $6.80 per square foot of land using the 2007 three-year median level of assessments for Jo Daviess County of 33.14%. Likewise, the most similarly sized comparable set forth in the appraisal, Sale #1, sold for $75,000 or $4.95 per square foot of land area in November 2005, which again is substantially lower than the subject's estimated market value of $6.22 per square foot.

While the board of review questions the adjustment made in the appraisal for dock rights when the subject had no dock rights, in the end the Property Tax Appeal Board finds that, despite the board's criticisms, the appraisal submitted by the appellant estimating the subject's market value of $57,000 and the board of review's sales of vacant land all support that the subject property is overvalued as of January 1, 2007. The most similar parcels in lot size each sold for less on a per-square-foot basis than the subject's 2007 per-square-foot estimated market value. Therefore, a reduction in the subject's assessment is warranted on this record.

However, the record also indicates that the appellant did not file a complaint with the board of review but appealed the subject's assessment directly to the Property Tax Appeal Board based on notice of an equalization factor. Since the appeal was filed after notification of an equalization factor, the amount of relief that the Property Tax Appeal Board can grant is limited. Section 1910.60(a) of the Official Rules of the Property Tax Appeal Board states in part:

> If the taxpayer or owner of property files a petition within 30 days after the postmark date of the written notice of the application of final, adopted township equalization factors, the relief the Property Tax Appeal Board may grant is limited to the amount of the increase caused by the application of the township equalization factor. (86 Ill.Admin.Code §1910.60(a)).

Additionally, section 16-180 of the Property Tax Code provides in pertinent part:

> Where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalization factor assigned to all property or to a class of property by the board of review, the Property Tax Appeal Board may not grant a reduction in the assessment greater than the amount that was added as the result of the equalization factor. (35 ILCS 200/16-180).

These provisions mean that where a taxpayer files an appeal directly to the Property Tax Appeal Board after notice of application of an equalization factor, the Board cannot grant an assessment reduction greater than the amount of increase caused by the equalization factor. Villa Retirement Apartments, Inc. v. Property Tax Appeal Board, 302 Ill.App.3d 745, 753 (4th Dist. 1999). Based on a review of the evidence contained in the record, the Property Tax Appeal Board finds a reduction in the assessment of the subject property is supported. However, the reduction is limited to the increase in the assessment caused by the application of the equalization factor.

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.