FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Edward L. Pulver Trust
DOCKET NO.: 07-06451.001-R-1
PARCEL NO.: 14-13-18-400-007

The parties of record before the Property Tax Appeal Board are Edward L. Pulver Trust, the appellant; and the Clinton County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***no change*** in the assessment of the property as established by the **Clinton** County Board of Review is warranted. The correct assessed valuation of the property is:

F/LAND:	$14
LAND:	$5,330
IMPR.:	$69,290
TOTAL:	$74,634

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 10.57 acre parcel improved with a one-story dwelling of brick construction that contains 3,163 square feet of living area. The dwelling is approximately 36 years old. Features of the home include a fireplace, central air conditioning, a partial unfinished basement and an attached garage with 1,369 square feet. The property also has an in-ground swimming pool. The property is located in Carlyle, Lake Township, Clinton County.

The appellant, Edward Pulver, appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. The appellant contends the subject's assessment is excessive due to its location adjacent to a large swine operation, the Maschhoff Pork Farm. The appellant explained that the subject dwelling is located 1,047 feet from a large lagoon that collects swine waste. The appellant argued the swine operation generates large amounts of offensive smell that has a negative impact on the value of the subject property. The appellant contends the board of review did not consider the value of the property in relation to its location.

At the hearing the appellant recited the assessment history of the subject property from 1989 to the present. He testified that assessment reductions were previously given due to the severity of the odor. He presented evidence that in 2005 the board of review reduced the assessment of the subject improvement from $65,465 to $49,678 and the land/lot had an assessment of $3,605. The appellant requested the Property Tax Appeal Board reduced the land/lot assessment to $3,605 and reduce the improvement assessment to $49,678.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment was disclosed. The subject property has approximately 8.07 acres in the Forest Stewardship Plan that is receiving a farmland assessment of $14.00.

In support of the assessment the board of review submitted a copy of the subject's property record card disclosing a schematic diagram of the improvements and the assessment calculation. The supervisor of assessments testified the subject property was valued using the 2006 Marshall and Swift cost manual. The cost new figures were adjusted for depreciation and the home was given a 20% negative market adjustment. The building improvements were valued at $207,860 and the land/lot was valued at $16,000.

The board of review also submitted an aerial photograph depicting the subject parcel and identifying the homesite and farmland. The board of review also provided a written statement describing the swine operation at the Maschhoff Pork Farm indicating there were 14,000 sows present.

The board of review witness further testified that no properties in the area were receiving an adjustment for location or for the smell/odor from the swine operation. The board of review also submitted information on numerous sales in the Posey area, located near the subject, to demonstrate the properties are consistently selling for more than the values reflected in the assessments. The board of review argued the appellant did not demonstrate the subject was over assessed and requested the assessment be confirmed.

After hearing the testimony and reviewing 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 does not support a reduction in the subject's assessment.

The appellant contends the subject's assessment is excessive due to the odors from neighboring swine operation. 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). Market value may be proved through the use of an appraisal, construction costs and

comparable sales. (86 Ill.Admin.Code 1910.65(c)). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is warranted.

Although the appellant argued the subject's value was excessive due to its location near a swine operation and the odors from the waste, the appellant submitted no evidence estimating the subject's market value considering its location. The appellant's argument was unsupported by any market data or valuation evidence that demonstrated the subject's assessment was excessive in relation to the market value of the property.

The board of review did provide a copy of the subject's property record card and testimony explaining how the property was valued for assessment purposes. The board of review also provided sales which demonstrated that assessments of other properties in the area were not excessive in relation to their respective sales prices. The board of review also provided testimony that other properties were not given location adjustments due to odor from the swine operation or other agricultural operations in Clinton County.

Based on this record the Property Tax Appeal Board finds the best evidence of value was provided by the Clinton County Board of Review and no change in the assessment is justified.

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: July 23, 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.