



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

APPELLANT: Harold & Erika Atchley
DOCKET NO.: 08-01262.001-R-1
PARCEL NO.: 13-2-21-04-05-102-005

The parties of record before the Property Tax Appeal Board are Harold & Erika Atchley, the appellants; and the Madison 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 Madison County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 12,720
IMPR.: \$ 66,750
TOTAL: \$ 79,470

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story single family dwelling with a vinyl and brick exterior that was built in 2001. Features include a full basement that is partially finished, central air conditioning, two fireplaces and a two-car attached garage. The dwelling is located in Glen Carbon, Collinsville Township, Madison County.

The appellants appeared before the Property Tax Appeal Board and made a legal argument with respect to the legal description and size of the subject lot. The appellants' appeal petition also indicates overvaluation as the basis of the appeal based upon an appraisal of the subject property. However, no appraisal was timely submitted before the Property Tax Appeal Board with respect to this 2007 appeal. The subject matter of this appeal was before the Property Tax Appeal Board the prior year under Docket Number 07-02483.001-R-1. In that appeal, like this instant case, the appellants asserted that the subject's legal

description was in error rendering the property unmarketable. Furthermore, the appellants asserted that there is an issue with respect to being a member of the homeowner's association. In the prior appeal, the Property Tax Appeal Board found it had no authority to review or compel any type of correction for the property in question to be properly platted or described for assessment purposes.

In support of the this appeal, the appellants argued the June 2001 deed that conveyed the subject property was incorrect and the property was conveyed contrary to the provisions of the Plat Act. (765 ILCS 205). Atchley asserted that he corrected the property line errors by attempting to record an amended plat in August 2003 and a corrected deed in September 2003. Atchley argued that the Recorder would not accept the amended plat or deed. The appellants argued the amended plat was not accepted by the Crystal View Homeowners Association; Village of Glen Carbon; Madison County State's Attorney; Abstracts & Titles, Inc.; Lawyers Title Insurance Corporation; or the Illinois Department of Professional Regulation. The appellants argued these various entities insist the original deed conveying the property in June 2001 is correct.

The appellants argued that the subject does not have a marketable title due to the lot line discrepancy. The appellant argued the subject lot now has two different plats of record describing the subject property. The appellants argued only one description can be correct. The appellants contend there can be no valid tax assessment until the Recorder has established the correct legal description for the subject property. The appellants argued the refusal by the responsible entities, including the Property Tax Appeal Board, to accept the amended plat and revised deed are in violation of the Plat Act (765 ILCS 205); Permanent Survey Act (765 ILCS 215/1); and Civil Procedure (715 ILCS 5/9-102(c)). No specific language was cited from these statutes showing their applicability to this appeal.

Based on the evidence presented, the appellants requested a \$0 land assessment and a \$10 improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$79,470 was disclosed. The subject's assessment reflects a market value of \$238,434 using the statutory level of assessments of 33.33%. The board of review argued that the appraisal submitted by the appellants for the prior assessment appeal for \$245,000 supports its assessment. The board of review's representative argued it was relying on the evidence it presented and the decision rendered by the Property Tax Appeal Board for the prior year under Docket Number 07-02483.001-R-1 in support of the subject's 2008 assessment.

In the 2007 appeal, the board of review presented witness testimony that the subject property was assessed as having a lot size of 16,348 square feet. At the hearing the board of review submitted copies of the subject's warranty deed recorded from June 2001, a copy of a quitclaim deed from the appellants (as grantors) to the appellants (as grantees) recorded in September 2003, and a copy of the subdivision amendment dated February 27, 2003.

With respect to the market value argument the appellants submitted an appraisal of the subject property for the 2007 appeal. The appraiser estimated the market value of the subject property using five comparable sales and one listing. The comparables were improved with one-story dwellings that were similar to the subject in location, construction, age and features. The comparables ranged in size from 1,633 to 2,103 square feet. These properties sold from April 2006 to December 2007 for prices ranging from \$228,000 to \$280,000. The listing had a price of \$219,900. Based on this market data the appraiser estimated the subject had a market value of \$245,000 as of December 15, 2007.

In the report the appraiser noted there is a discrepancy concerning the size of the subject lot. He appraised the subject as having a lot containing 16,348 square feet based on an amended plat made in 2003. He noted that the original lot size as recorded on the original subdivision plat indicated the subject had an original lot size of 11,675 square feet. The appraiser noted if the original lot lines take precedent there would be a loss in value of \$24,500 to \$25,000 with an additional loss of \$5,000 for the loss of landscaping. The appraiser also noted in his report there could be significant impact on market value if the original lot line is used due to possible set-back requirement violations. As a final point the appraiser stated another area of concern was whether or not the property is subject to the subdivision covenant and restrictions, and whether or not the property is part of the homeowner's association.

Based on this evidence, the board of review requested confirmation of the subject's assessed valuation.

In rebuttal, the appellant submitted another appraisal of the subject property estimating a fair market value of \$250,000 as of January 1, 2009, using the sales comparison approach to value. The board of review did not object to the value conclusion. The appellants also submitted a letter from the appraiser stating the value conclusion was subject to certain conditions. The appraiser noted there is a discrepancy in the size of the subject lot, as outlined in the appraisal report, which could adversely impact the subject's value depending on the resolution of the subject's lot size.

The letter and appraisal report indicate the subject lot has 16,348 square feet of land area while the lot was originally platted as containing 11,675 square feet of land area. The appraiser indicated the lot size significantly impacts the use of the land as well as the market value of the entire property. The appraiser indicated if the original lot lines take precedent there would be a loss in value of \$30,000, resulting in a fair market value of \$220,000. The appraiser also opined there is a "cloud" on the title, which impacts the owners' ability to transfer title in a sale transaction or get mortgage financing. As long as the "cloud" on the title remains, the subject property probably cannot be sold in any other cash transaction, which would be highly unlikely, since any prudent buyer would not want to purchase the subject property under the current circumstances. Therefore, if a market value for this property does not realistically exist at the present time, the market value for the subject property by definition is \$0. The appraiser was not present at the hearing for cross-examination regarding these claims.

After reviewing the record and considering the testimony, 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 appellants argued in part that the market value of the subject property is not accurately reflected in its assessed valuation. 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). The Board finds the appellants' evidence demonstrates the subject is not overvalued for assessment purposes.

The appellants submitted an appraisal, in rebuttal, estimating the subject property had a market value of \$250,000 as of July 7, 2009. The subject's assessment reflects a market value of \$238,434 using the statutory level of assessments of 33.33%. The Board finds the subject's assessment is not excessive in light of the appraisal value conclusion.

The Board recognizes the appraisal report contained a qualifications indicating a deduction of \$30,000 may be warranted if the original lot lines are used, which would result in a market value estimate of \$220,000. In addition, the appraisal report indicates the subject property could be in violation of local set back requirements and whether or not the subject property is part of the homeowners association that would be subject to subdivision covenants. The appraiser noted a legal review of these matters should be conducted, as these matters could affect the marketability of the subject property. However, the Board finds the appraiser was not present at the hearing to

be cross-examined regarding the speculative valuation findings. Furthermore, the Board finds the appraiser's report did not contain corroborating evidence nor any market derived support to buttress the speculative value conclusion(s).

The appellants also asserted that the subject's description is in error rendering the property unmarketable and further asserted that there is an issue with respect to being a member of the homeowner's association. The Board finds there is no evidence in record to support a reduction to the subject's assessment for either of these arguments. The Property Tax Appeal Board finds it has no authority to review or compel any type of correction for the property in question to be properly platted or described for assessment purposes. The Property Tax Appeal Board has limited authority as provided by the Property Tax Code. As stated by the court in People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill.App.3d 316, 317 N.E.2d 121 (2nd Dist. 1974),

The only authority and power placed in the [Property Tax Appeal] Board by statute is to receive appeals from decisions of Boards of Review, make rules of procedure, conduct hearings and make a decision on the appeal. The only types of appeal provided for in the statute are by any taxpayer dissatisfied with the decision of a board of review as such decision pertains to an assessment of his property for taxation purposes or any taxing body that has an interest in the decision of the board of review on an assessment made by any local assessment officer. Thompson, 22 Ill.App.3d at 322.

The court in Thompson went on to hold that the Property Tax Appeal Board is not authorized, in reviewing an assessment decision of the county board of review, to compel the property in question to be properly platted or described for assessment purposes. Thompson, 22 Ill.App.3d at 125.

For these reasons the Property Tax Appeal Board finds that the assessment of the subject property as determined by the Madison County Board of Review is correct and no 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

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: March 23, 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.