



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

APPELLANT: Matt & Regina Heissinger  
DOCKET NO.: 08-01365.001-R-1  
PARCEL NO.: 24-17.0-300-014

The parties of record before the Property Tax Appeal Board are Matt & Regina Heissinger, the appellants, and the Sangamon 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 Sangamon County Board of Review is warranted. The correct assessed valuation of the property is:

<b>F/Land:</b>	\$867
<b>Homesite:</b>	\$12,698
<b>Residence:</b>	\$21,910
<b>Outbuildings:</b>	\$0
<b>TOTAL:</b>	\$35,475

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject approximately 29.08-acre parcel<sup>1</sup> is improved with a one-story frame exterior constructed dwelling built in 1991. The dwelling contains 2,095 square feet of living area with a partial unfinished basement of 1,807 square feet of building area. Additional features of the dwelling are central air conditioning, a fireplace, and a 2.5-car garage. The subject property also features a 336 square foot screened porch and is located in Rochester, Cooper Township, Sangamon County.

The appellants appeared before the Property Tax Appeal Board contending overvaluation of the subject property, but did not contest the farmland assessment. In support of this market value argument concerning the homesite and residence, the appellants

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<sup>1</sup> In a drawing, the appellants reported 19-acres of cropland (farmland), 18-acres of timber/flood plain and a 1.5-acre homesite which is greater than the total acreage reported both by the appellants' appraiser and by the assessing officials.

filed an appraisal prepared by Barry Taft of Taft Appraisal, Inc. in Springfield, a State Certified General Real Estate Appraiser along with a letter, photographs of the view of a hog confinement operation visible from the subject property, and information on hog farms gathered from the internet.

In the letter, the appellants report that a hog confinement operation was constructed within 800 feet to the west of the subject property in March 2009 which houses 4,800 hogs which are raised from 10 pound piglets to 400 pound hogs. The hog confinement consists primarily of a 45,000 square foot barn with a similarly sized lagoon under the pigs. Due to litigation, the plans to build the facility were known long prior to actual construction.

The appellants at hearing reiterated contentions made in their letter that breezes from the hog confinement across their property are awful. As a consequence, the existence of this structure and operation has impacted the subject's property value. In addition, the appellants contend based on the nationwide internet data attached to the appeal that the existence of this hog confinement operation near the subject will permanently impact the value of the subject property.

In terms of market value evidence, the stated purpose of the appraisal was for an *ad valorem* property tax appeal and the property rights appraised were fee simple. In describing the subject as 3.29-acres along with the one-story dwelling as set forth above, the appraiser performed the report under the hypothetical condition that the non-farm site size was 3.29-acres as opposed to the entire acreage contained in the subject parcel. On page 4 the appraiser defined the hypothetical condition.

Under the site description, the appraiser noted there is an adverse site condition or external factor contiguous to the west in the form of a "Concentrated Animal Feeding Operation" (CAFO). Specifically, the appraiser wrote in the report:

The value of the subject property and its residential use is significantly adversely affected by its close proximity to a confined animal feeding operation. These types of industrial farm animal facilities produce odor and noise from operations and there is a general stigma concerning residential uses in close proximity to them. Furthermore, the facility is located just southwest of the subject which is in line with prevailing winds in the area which further negatively effects the subject.

The dwelling was also reported to be prefabricated construction with the walls and roof constructed off-site and installed on a poured concrete foundation. The appraiser noted the dwelling to be in average condition, but specifically noted settlement and the fact that the roof was at the end of its physical life.

Thus, physical depreciation based on the condition of the property was allowed.

The appraiser used the sales comparison approach to value in concluding an estimated market value of \$105,000 for the subject homesite and residence as of January 23, 2010.

As set forth in the report, the appraiser analyzed five sales of comparable homes located between 2.83 and 8.11-miles from the subject property. The properties were said to be on the market from 4 days to 33 days. The parcels range in size from 1 to 1.86-acres and were improved with a two-story dwelling, a tri-level dwelling and three, one-story dwellings that ranged in age from 13 to about 50 years old. The comparables were of frame or frame and masonry exterior construction and ranged in size from 1,504 to 2,178 square feet of living area. Four comparables have basements, three of which were finished and one of which was a walk-out style. Additional features included central air conditioning and 1-car to 4-car garages plus two comparables have outbuildings. The sales occurred between August 2008 and October 2009 for prices ranging from \$73,000 to \$100,000 or from \$33.52 to \$55.52 per square foot of living area including land.

In comparing the comparable properties to the subject, the appraiser made adjustments for location, site size, design, age, condition, dwelling size, basement, basement finish and/or style, garage size and other amenities. The appraiser revealed that sales #4 and #5 had also transferred via Sheriff's Deeds at a time in close proximity to the date of sale reported in the appraisal. The appraiser reported sale #1 was deemed to be in a similar location to the subject being nearby the Springfield Sanitary District sewage treatment facility and thus suffering from the impact of odors; the other four sales were superior in location as they did not suffer from external obsolescence (i.e., CAFO). Particular differences between specific comparables and the subject were discussed in the appraisal. "The comparables are sales of similar utility properties in the same market area and they provide a reasonable indication of the subject's value." The appraiser's analysis resulted in adjusted sales prices for the comparables ranging from \$84,800 to \$113,050 or from \$38.93 to \$75.17 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 \$105,000 or \$50.12 per square foot of living area including land.

Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the appraised value.

On cross-examination, the appraiser was asked if hogs were present at the facility as of the date of inspection which was January 23, 2010. The appraiser testified that he could not see if hogs were at the facility as he only saw it at a distance.

On questions from the Hearing Officer, the appraiser opined that his value opinion would be similar for the subject property as of

January 1, 2008 as the hog confinement was in litigation at that time and/or under construction so that any buyer of the subject property would anticipate that the hog confinement would be nearby.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's homesite and residence equalized assessments totaling \$73,083 plus a farmland assessment of \$867 were disclosed. The final assessment of the subject homesite and residence reflects a market value of \$221,732 or \$105.84 per square foot of living area including land using the 2008 three-year median level of assessments for Sangamon County of 32.96%.

In response to the appellants' appraisal, the board of review submitted a memorandum and data on the sales comparables presented in the appraisal. First, the board of review criticized the completion of the appraisal under a 'hypothetical condition' contending that this was not supported. Likewise, the board of review criticized the appraiser for applying external obsolescence and noted there was no other support in the report for the assertion.

As to the comparables presented in the appraisal, sale #1 was a residential 1.5-acre parcel "next to interstate 72" and purchased by the Springfield Sanitary District; sales #2 and #3 were also residential lots in subdivisions; and sales #4 and #5 were not in Sangamon County and involved Sheriff's Deeds. The board of review also noted the appraiser's gross adjustments to the sales comparables ranged from 49% to 83% which the board of review contends are excessive adjustments and suggest that other comparables should be been utilized.

At hearing, the board of review representative agreed that the subject homesite consists of 3.29-acres.

In conclusion, the board of review contends that the appellants' appraisal does not provide an indication of market value and the board of review requests confirmation of the subject's assessment.

In rebuttal, the appraiser addressed the criticisms raised by the board of review. In particular, he noted that in his work file he had data which he had gathered on the impact upon surrounding properties of the existence of a CAFO. Summarizing the information, he noted that different persons from different parts of the country stating that CAFOs do impact the value; "whether they do or not, the perception is that they do. That perception will have an impact on value." Given the publicity of the litigation about the CAFO, any knowledgeable and informed buyer would be aware of the impending construction next to the subject.

In this appraisal, Taft, who has 20 years of appraisal experience and an MAI designation from the Appraisal Institute, made an adjustment for location in the sales comparison approach using his best judgment. Sales #2 through #5 had downward location

adjustments of either \$10,000 or \$15,000 each. Taft further contends that even if the location adjustment were removed, his value conclusion for the subject still falls within the range of those newly adjusted sales figures.

The appraiser also discussed the sales comparables presented in the appraisal based on the criticisms of the board of review. The appraiser discussed with the broker the terms of sale #1 and found it was a valid sale to utilize even though the Springfield Sanitary District purchased the property to avoid having neighbors complaining of odors and even though the new owner demolished the structure. Sales #4 and #5 were listed in the Multiple Listing Service and therefore the transfer by Sheriff's Deed and the sale within a 4 day period were not deemed to be problematic by Taft; sale #4 was listed for \$114,900 and sold for \$100,000. Taft also disputed the criticism that the percentage of adjustments to the comparables were excessive as Taft is not familiar with any treatise or principle that demands adjustments to be within a certain level other than Fannie Mae and Freddie Mac having only suggested guidelines.

In addition, both the appellants and Taft reiterated that the CAFO is 'on top' of the subject property and has a foul, raw manure, odor that is a serious problem to the outdoor enjoyment of the subject property. The appellants further contend that much of their retirement savings are tied up in the subject property which probably will not be recouped later and the appellants based on the current assessment were still paying taxes as if the value of the property had not been decreased by the presence of the CAFO. The appellants also testified to the loss of interest an individual potential buyer had for a quaint rural property about 2.5-miles from the CAFO once the buyer learned of the pending construction of the CAFO and read articles about the facility.

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.<sup>2</sup> The Board further finds that a reduction in the subject's assessment is warranted.

The appellants argued that the subject's homesite and residence assessments were 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 1256 (2nd Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.

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<sup>2</sup> While the appellants submitted a copy of the notice of a township multiplier as their final decision from the Sangamon County Board of Review, the board of review in its Notes on Appeal reported that the appellants "did" appear before the board of review upon proper notice. Therefore, the Property Tax Appeal Board finds that it has full jurisdiction over the correct assessment of the subject property as this is not simply a multiplier appeal which would limit the Board's jurisdiction.

App. 3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 86 Ill.Admin.Code Sec. 1910.65(c). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill.App.3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428 (1970).

The Board finds the appellants submitted an appraisal of the subject property with a final value conclusion of \$105,000 as of January 23, 2010 for the subject homesite and residence, while the board of review submitted no appraisal or market value evidence, but only criticized various aspects of the appellants' appraisal. The Property Tax Appeal Board finds the criticisms presented by the board of review are either erroneous assertions or were simply criticisms of comparables selected without the presentation of sales comparables to support the subject's estimated market value of \$221,732 for the homesite and residence.

The criticism of the hypothetical condition is found by the Property Tax Appeal Board to be inappropriate; since under the Property Tax Code farmland is not assessed at 33 1/3% of fair market value, the Board finds the appraiser utilized a proper method to consider the market value of only the homesite and residence for purposes of this appraisal assignment that was performed for the purpose of an *ad valorem* assessment appeal of those portions of the subject property. The Board also finds that the board of review incorrectly asserted that no explanation of the hypothetical condition was included in the appraisal as on page 4 the appraiser explained the basis for the condition.

The board of review also criticized the selection of comparable sales and the amount of adjustments made by the appraiser to those sales. However, the board of review failed to submit any data to refute those sales and/or to support the estimated market value of the subject property as reflected by its assessment.

Perhaps a most valid criticism of this appraisal would concern the date of valuation. However, the Board finds again the board of review provided no sales data to refute the appellants' market value evidence. Therefore, the Board finds that the date of the opinion of value alone is not a sufficient basis to discredit the appellants' appraisal.

While the board of review raised criticisms and/or shortcomings it perceived in the appellants' appraisal, in the end the Property Tax Appeal Board finds that as outlined above and despite those criticisms, the appraisal submitted by the appellants estimating the subject's market value of \$105,000 is still the best evidence of the subject's homesite and residence market value in the record. Moreover, the appraisal's opinion of value was not substantively challenged with any market value evidence presented by the board of review.

Based upon the market value as stated above, the Property Tax Appeal Board finds that a reduction is warranted. Since market value has been established, the three-year median level of assessments for Sangamon County for 2008 of 32.96% shall be applied. (86 Ill.Admin.Code Sec. 1910.50(c)(1)).

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

Acting 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: January 20, 2012

*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.