



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

APPELLANT: David & Judith Diederich
DOCKET NO.: 08-01745.001-R-1
PARCEL NO.: 02-06-328-001

The parties of record before the Property Tax Appeal Board are David & Judith Diederich, the appellants, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$36,255
IMPR: \$130,318
TOTAL: \$166,573

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 9,409 square feet of land area is improved with a 3-year-old, one-story frame single-family dwelling that contains 3,124 square feet of living area. Features of the home include a full unfinished walkout-style basement, central air-conditioning, a fireplace, and a three-car garage of 600 square feet of building area. The property is located in Huntley, Rutland Township, Kane County.

The appellants appeared before the Property Tax Appeal Board claiming both unequal treatment in the assessment process and overvaluation as the bases of the appeal. In support of the both arguments, the appellants submitted a grid analysis of three comparable properties along with a brief.

In the brief, the appellants stated that three comparables are the same model as the subject and have 'similar' land descriptions. Each home was completed by the same developer and purchased in 2005 like the subject. The appellants report "[d]ifference in market values resulted from accouterments chosen by the owners." By analyzing the sales prices in 2005 of the comparables to their 2008 assessments, the appellants contend

they "are being assessed at significantly higher rate than these comparables."

The comparables are located within 175 feet of the subject dwelling. The comparable parcels range in size from 9,454 to 12,359 square feet of land area. The comparables were described as 3-year-old, one-story frame dwellings that each contain 2,833 square feet of living area identical to the appellants' description of the subject dwelling. Features of the comparables include a full unfinished basement, central air-conditioning, and a 600 square foot garage. Two comparables also have a fireplace. These properties are reported to have improvement assessments ranging from \$132,924 to \$136,848 or from \$46.92 to \$48.31 per square foot of living area. The subject has an improvement assessment of \$135,984 or \$48.00 per square foot of living area.

The appellants also reported the total assessments of the subject parcels multiplied by three reflect estimated market values ranging from \$507,537 to \$519,309. The subject's assessment multiplied by three reflects an estimated market value of \$516,717.

The appellants also reported that the comparables sold in 2005 for prices ranging from \$499,065 to \$531,655 or from \$175.79 to \$187.66 per square foot of living area including land. The subject was purchased in 2005 for \$493,185 or \$174.09 per square foot of living area including land.

Given that each of the comparables was purchased in the same year, the appellants in their brief and in a chart analyzed the current assessments as compared to those 2005 purchase prices. From this analysis, the appellants report that the subject property has according to the assessing officials increased in market value by \$23,584 as of 2008 whereas comparables #1 and #2 have increased values of \$8,493 and \$9,543, respectively, and comparable #3 has a decrease in value of \$12,294 from its 2005 purchase price. The appellants then compare the fact that the comparables in 2005 sold for prices from \$4,830 to \$38,470 more than the subject, suggesting that each was more valuable than the subject. However, the 2008 assessments reflect values of \$2,592 more than the subject to values that are \$8,493 and \$9,211 less than the subject property.

Based on this evidence, the appellants requested the subject's total assessment be reduced to \$166,573 which would reflect an estimated market value of approximately \$499,719 or \$176.39 per square foot of living area including land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$172,239 was disclosed. The subject has an estimated market value of \$517,701 or \$182.74 per square foot of living area including land, based on a dwelling size of 3,124 square feet, as reflected by its assessment and Kane County's 2008 three-year median level of assessments of 33.27%.

In response to the appellants' data, the board of review submitted a corrected grid analysis of the appellants' comparables along with applicable property record cards. The board of review reports revised dwelling sizes for the subject and each of the comparables of either 3,106 or 3,124 square feet of living area. Each comparable has a walkout basement and comparable #3 also has basement finished area. With those modifications to the dwelling sizes, each of the per-square-foot sale and assessment figures was modified. According to the revised data, the subject sold for \$157.87 per square foot of living area including land in 2005 and the comparables ranged from \$158.46 to \$170.18 per square foot of living area including land. The subject has an improvement assessment of \$43.53 per square foot of living area and the comparables have improvement assessments ranging from \$42.55 to \$43.81 per square foot of living area.

In support of the subject's assessment, the board of review presented a spreadsheet of all models with the same dwelling size as the subject of 3,124 square feet. This list included the appellants' comparables #2 and #3. The six comparables on the spreadsheet were built between 2005 and 2007. Four comparables have full basements and four have a fireplace. Five comparables have patios and two comparables also have decks. These properties have improvement assessments ranging from \$94,317 to \$136,848 to \$30.19 to \$43.81 per square foot of living area. Five of these comparables also sold between March 2005 and October 2008 for prices ranging from \$390,045 to \$501,020 or from \$124.85 to \$170.18 per square foot of living area including land. Based on the foregoing assessment and market value data, the board of review concluded that the subject's sale price and improvement assessment fall within the range of the most similar comparables and therefore, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellants noted that their grid analysis reflected data drawn from property data presented on the Rutland Township Assessor's website. Regardless of the changes made to the grid, the appellants maintain that there is a lack of uniformity and that the subject property is overvalued.

Also with rebuttal, the appellants submitted a grid analysis of three additional comparables and testified to the 2010 sale price of their additional comparable #3.

Pursuant to the Official Rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or **newly discovered comparable properties**. [Emphasis added.] (86 Ill.Admin.Code §1910.66(c)). In light of these Rules, the Property Tax Appeal Board has not considered the three

additional comparables submitted by appellants in conjunction with their rebuttal argument.

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. The Property Tax Appeal Board further finds that a reduction in the subject's assessment is warranted on grounds of overvaluation.

The appellants' arguments were both unequal treatment in the assessment process and overvaluation. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). After an analysis of both the assessment and market value data, the Board finds the appellants have overcome the burden as to market value or overvaluation of the subject property.

As an initial matter, the appellants' brief and analysis of 2005 sale prices to 2008 assessments will be addressed. In essence, the appellants performed a limited sales ratio analysis. However, the appellants failed to utilize the proper method in calculating the assessment to value ratio for the comparables. The Board finds the proper method to calculate assessment to value ratios for *ad valorem* taxation purposes is by using a property's prior year's assessment divided by its arm's-length sale price. Moreover, the Board finds the appellants' analysis and interpretation of the sales ratio data is in error and is not supported by the limited results. The Property Tax Appeal Board finds that it can give little credence to the appellants' argument based on the limited sales ratio study of three nearby properties.

In this same context, the Board finds the appellants' study was not performed on a countywide basis, the properties selected were not random, and the appellants did not properly edit the data. Peacock v. Property Tax Appeal Board, 339 Ill.App.3d 1060 (4th Dist. 2003). The Board finds the courts have held that in determining whether to use a township or county sales ratio, considerations of practicality dictate the use of the county ratio. People ex rel. Kohorst v. Gulf, Mobile & Ohio R.R. Co., 22 Ill.2d 104, 174 (1961). The courts look to the county as a whole in order to determine whether the property at issue is being assessed in accordance with the constitutional guaranty of equity and uniformity of taxation. Additionally, the courts have held that "even if the studies show a disparity in the levels of assessment of residential property within the same township, we cannot find that the evidence shows that a township level of

assessment, rather than a countywide level, is the proper one. In re App. of County Treasurer (Twin Manors), 175 Ill.App.3d 562 (1st Dist. 1988). Thus, a review of case law indicates that the courts look at the "assessment level for the county as a whole" rather than selective properties in a given area, as the appellants did in this instant appeal.

As to the overvaluation argument, the parties presented six comparable sales for the Board's consideration to support their respective positions in this matter. The properties were similar to the subject in location, design, age, size and features. The comparables sold between 2005 and 2008 for prices ranging from \$390,045 to \$501,020 or from \$124.85 to \$170.18 per square foot of living area including land. The subject's assessment reflects a market value of \$517,701 or \$182.74 per square foot of living area including land, which is above the range of the most similar comparables presented by both parties. Two sales presented by the board of review that occurred in October 2006 and October 2008 lack certain features enjoyed by the subject property, but each sold for \$160.38 in 2006 and \$155.25 in 2008 per square foot of living area including land, respectively. The subject's 2008 estimated market value of \$182.74 per square foot of living area including land is substantially above both of these most recent sales, even given differences in deck, fireplace and/or patio features. After considering the most comparable sales on this record, the Board finds the appellants have demonstrated the subject property's assessment is excessive in relation to its market value and a reduction in the subject's assessment in accordance with the appellants' request is warranted.

While the appellants also made a lack of uniformity argument, having adjusted the subject's improvement assessment based on the overvaluation argument, the Board finds that no further reduction is warranted on grounds of assessment inequity.

In conclusion, the appellants have established overvaluation of the subject property and a reduction in the subject's assessment 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

Frank J. Huff

Member

Member

Mario M. Louie

Shawn R. Lerbis

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: September 23, 2011

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.