



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

APPELLANT: Michael & Karen Michalski
DOCKET NO.: 08-01746.001-R-1
PARCEL NO.: 17-08-15-402-012

The parties of record before the Property Tax Appeal Board are Michael and Karen Michalski, the appellants; and the Kankakee 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 **Kankakee** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$20,798
IMPR.: \$149,487
TOTAL: \$170,285

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a part one-story and part two-story single family dwelling that contains 3,833 square feet of living area. The dwelling is of frame and brick construction and was built in 2002. Features of the home include a full basement that is partially finished, central air conditioning, two fireplaces and a three-car attached garage with 736 square feet. The subject property has a 30,000 square foot parcel and is located in Bourbonnais, Bourbonnais Township, Kankakee County.

The appellants contend assessment inequity as the basis of the appeal. In support of this argument the appellants submitted information on six comparables summarized on appellant's Chart A. The comparables consist of two-story single family dwellings that range in size from 3,234 to 4,411 square feet of living area and in age from three to sixteen years old. Five of the comparables are located in the subject's subdivision and one is located approximately one mile from the subject property. Each comparable has central air conditioning, one to three fireplaces and a three-car garage that range in size from 673 to 1,025 square feet. Each comparable also has a basement with five of the six being finished. These comparables have total assessments that range from \$151,463 to \$198,686 and improvement assessments

that range from \$125,951 to \$174,422 or from \$35.82 to \$39.54 per square foot of living area. The subject has a total assessment of \$170,285 and an improvement assessment of \$149,487 or \$39.00 per square foot of living area. The appellants contend the comparables have improvement assessments that average 2.5% lower than the subject property. In their written submission the appellants contend that comparable #1 has an all brick/stone exterior, a finished basement, oak flooring, granite countertops in the kitchen and a winding oak staircase. They also assert this property backs to a conservation area, Kankakee River State Park, making the property superior to the subject.

The appellants also reviewed the assessment increases from 2007 to 2008 of 30 homes located in the subject's subdivision, including the subject, which was marked as appellant's Chart B. This exhibit contained the parcel numbers, owners, addresses, 2007 assessments and the 2008 assessments. The appellants indicated these properties had assessment increases from 2007 to 2008 ranging from 6.34% to 12.74% with an average increase of 7.70%. The appellants indicated the subject had an increase in assessment from 2007 to 2008 of 10.46%.

The appellants also developed an analysis comparing the subject's assessment in 2007 with the six comparables identified in Chart A and the subject's 2008 assessment with the same comparables, which was marked as appellant's Chart C. According to the appellants in 2007 the comparables had improvement assessments ranging from 94.8% to 104.7% of the subject's improvement assessment. In 2008 the comparables had improvement assessments ranging from 91.9% to 101.4% of the subject's improvement assessment.

Based on this record the appellants requested the subject's improvement assessment be reduced to \$144,602 or \$37.73 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$170,285 was disclosed. The subject has an improvement assessment of \$149,487 or \$39.00 per square foot of living area. Submitted with the board review evidence were Exhibits A through E (E-1, E-2, E-3, E-4 and E-5.). Exhibits E-1 through E-5 are composed of evidence from the township assessor supporting the assessment, which will be the focus of the Property Tax Appeal Board's review.

The board of review submitted "Assessor's Assessment Equity Grid" marked as Exhibit E-2 listing thirteen properties, including the subject, and the associated property record cards for each property. Appellants' comparables #1, #2 and #3 were included in the exhibit. The comparables were composed of part one and part two-story dwellings that ranged in size from 3,321 to 4,276 square feet of living area. The comparables had similar construction as the subject and were built from 1992 to 2006. Each comparable had central air conditioning, each comparable had

a basement with seven being finished and each comparable had an attached garage ranging in size from 661 to 1,285 square feet of building area. Eleven of the comparables have from 1 to 3 fireplaces and two comparables had swimming pools. After making an adjustment to account for the two comparables with swimming pools, the comparables had improvement assessments ranging from \$130,493 to \$178,979 or from \$36.93 to \$43.62 per square foot of living area. The subject's improvement assessment was \$149,487, or \$39.00 per square foot of living area, which was the fourth lowest on a square foot basis.

The board of review also submitted "Assessor's Sales Comparison Grid #1" marked as Exhibit E-3. This exhibit consisted of 13 sales that occurred in 2005 through 2007 arrayed from the lowest price per square foot to the highest price per square foot. The comparables were composed of one two-story dwelling and twelve part one-story and part two-story dwellings that ranged in size from 3,054 to 4,557 square feet of living area. The dwellings were constructed from 1998 to 2006. Each comparable has a basement with four being finished, central air conditioning, one or two fireplaces and attached garages ranging in size from 460 to 966 square feet of building area. One comparable also has a swimming pool. These properties sold from November 2005 to September 2007 for prices ranging from \$397,000 to \$655,000 or from \$109.58 to \$191.55 per square foot of living area including land. The subject's total assessment reflects a market value of \$511,520, rounded, or \$133.45 per square foot of living area including land using the 2008 three year average median level of assessments for Kankakee County of 33.29%. The subject's assessment reflects a market value that is below ten of the thirteen comparables on a square foot basis.

The board of review also submitted "Assessor's Sales Comparison Grid #2" marked as Exhibit E-4. This exhibit included a revised spreadsheet that eliminated the sales at the extreme ends on the list identified in Exhibit E-3. The resulting list contained eight sales with a median price of \$140.92 per square foot of living area and a mean price of \$139.77 per square foot of living area, including land.

The board of review also submitted Exhibit E-5, which was an assessment grid analysis using eight comparables, all of which were included in Exhibit E-2. The comparables were described as part one and part two-story dwellings that ranged in size from 3,330 to 4,276 square feet of living area. The dwellings had similar exterior construction as the subject and were built from 1998 to 2006. Each comparable had a basement with four being finished, central air conditioning, one to three fireplaces and a garage that range in size from 673 to 1,178 square feet of building area. One comparable has a swimming pool. These properties had improvement assessments ranging from \$130,710 to \$178,979 or from \$39.05 to \$43.62 per square foot of living area.

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

The appellants submitted rebuttal evidence commenting on the board of review comparables and reiterating points made in their original submission. The appellant's also submitted rebuttal evidence disclosing that the subject property was the subject matter of an appeal before the Property Tax Appeal Board in 2009 under Docket No. 09-01334.001-R-1 in which the Property Tax Appeal Board issued a decision reducing the assessment of the subject property to \$168,708 based an agreement of the appellant and board of review. The rebuttal evidence also indicated the 2010 improvement assessment was reduced by the board of review to \$147,494.

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 the appeal. The Board further finds a reduction in the subject's assessment is not support on this record.

The appellants contend assessment inequity as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989).

The Uniformity Clause of the Illinois Constitution provides that: "Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401 (1960). Taxation must be in proportion to the value of the property being taxed. Apex Motor Fuel, 20 Ill. 2d at 401; Kankakee County Board of Review, 131 Ill.2d at 20 (fair cash value is the cornerstone of uniform assessment.) It is unconstitutional for one kind of property within a taxing district to be taxed as a certain proportion of its market value while the same kind of property in the same taxing district is taxed at a substantially higher or lower proportion of its market value. Kankakee County Board of Review, 131 Ill.2d at 20; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234 (1998). After an analysis of the assessment data the Board finds a reduction is not warranted.

The record contains descriptions and assessment information on numerous comparables submitted by the parties to support their respective positions. The Board finds the best comparables submitted by the appellants were comparables #1, #2, #3 and #6. These comparables were relatively similar to the subject in age and location. These comparables had total assessments ranging from \$151,463 to \$198,686 and improvement assessments ranging from \$130,665 to \$174,422 or from \$35.82 to \$39.54 per square foot of living area. The subject has a total assessment of \$170,285 and an improvement assessment of \$149,487 or \$39.00 per

square foot of living area. The subject's assessment is within the range established by the best comparables submitted by the appellants.

The Board further finds the board of review submitted thirteen equity comparables, which include appellants' comparables #1, #2 and #5. The Property Tax Appeal Board gave less weight to the board of review comparable with parcel number 08-15-403-102 due to its age. The twelve remaining comparables were relatively similar to the subject in age, location and features. After making adjustments to the two comparables with swimming pools, the comparables have improvement assessments ranging from \$130,493 to \$178,979 or from \$36.93 to \$43.62 per square foot of living area. The subject's improvement assessment was \$149,487, or \$39.00 per square foot of living area, which is within the range established by these comparables and is the third lowest on a square foot basis.

Considering these most similar comparables submitted by the parties, the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject was being inequitably assessed.

This record also contained sales data submitted by the board of review. The Property Tax Appeal Board finds the most probative sales occurred in 2007. The four comparables that sold in 2007 were composed of part one-story and part two-story dwellings that ranged in size from 3,057 to 4,072 square feet of living area. These homes were constructed from 2002 to 2006 and had similar features as the subject with the exception that only one had a finished basement. These properties sold for prices ranging from \$414,900 to \$655,000 or from \$135.72 to \$165.85 per square foot of living area, including land. The subject's total assessment reflects a market value of \$511,520, rounded, or \$133.45 per square foot of living area, including land, using the 2008 three year average median level of assessments for Kankakee County of 33.29%. The subject's assessment reflects a market value below the range established by the best comparable sales in this record on a square foot basis.

The appellants argued in part that the subject's assessment increased from 2007 to 2008 at a higher percentage than the average of the 30 properties in the subject's subdivision. The Board gives this argument no weight. The Board finds the mere fact that the appellants' assessment may have increased more than the average increase of other properties in the subject's subdivision from 2007 to 2008 does not demonstrate that the subject's assessment or the assessments of other properties is out of sync with market values. In fact, the evidence indicates the subject's assessment is reflective of the property's market value. There was no showing by the appellants that the subject property was being assessed at a substantially higher proportion of its market value than their comparables.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist on the basis of the evidence in this record.

The Board finds that the record indicates the subject's improvement assessment was reduced in 2009 and 2010, however, the evidence in the record demonstrates the subject was being equitably assessed in 2008.

In conclusion the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject was being inequitably assessed.

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 M. Louie

Member

Shawn R. Lerbis

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: August 19, 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.