



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

APPELLANT: Joseph Pulio
DOCKET NO.: 08-02241.001-R-1
PARCEL NO.: 03-20-427-004

The parties of record before the Property Tax Appeal Board are Joseph Pulio, the appellant, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$29,824
IMPR.: \$114,816
TOTAL: \$144,640

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 6,534 square feet of land area backs to a natural wetland area. The parcel is improved with a 6-year-old, one-story single-family dwelling of frame construction. The home contains 2,280 square feet of living area and features a 1,412 square foot walkout-style basement with 1,059 square feet of finished area, central air conditioning, a fireplace, and a 528 square foot garage. The property also has a brick paver patio and is located in West Dundee, Dundee Township, Kane County.

The appellant appeared before the Property Tax Appeal Board and in the underlying petition indicated both unequal treatment in the assessment process and overvaluation as the bases of the appeal. In support of these arguments, the appellant presented a three-page letter and a two-page grid analysis of five comparable properties in the subject's subdivision. These comparables were said to be no more than "12 doors away" from the subject.

As to the appellant's land inequity argument, the appellant contended that in 2007 all parcels in the subject's subdivision had identical land assessments, but after numerous complaints from residents on the north side of Wessex Drive, land assessments were reduced for those north-side-of-the-road

residents due to their proximity to Route 72. Appellant contends that the subject on the south-side of Wessex Drive is "within the exact same proximity of Route 72" and subject to the same degree of noise, but the subject parcel has not been given a land assessment reduction for this fact. Moreover, through photographs and a parcel map, the appellant presented evidence that the properties that 'back up' to Route 72 enjoy open space filled with a walking path, wildflowers, bushes and mature pine and deciduous trees that buffer the properties from Route 72.

The appellant's five comparable properties range in size from 6,970 to 7,841 square feet of land area. Four parcels have land assessments of \$21,371 and one has a land assessment of \$24,499. The subject has a land assessment of \$29,824. On a parcel map, the appellant depicted the location of the comparables; four of the appellant's comparables are on the north side of Wessex Drive and one comparable is on the south side of Wessex Drive, like the subject. The appellant argued that the determination of the assessing officials to reduce the land assessments of those parcels on the north side of Wessex Drive from \$5,100 to \$8,100 each due to their location 'backing up' to Route 72 was inappropriate and non-uniform given that the subject, located on the south side of the street, similarly suffers from noise caused by Route 72. Based on this evidence, the appellant requested a reduction in the subject's land assessment to \$21,371.

As to the improvement inequity argument, the appellant's five comparables are improved with one-story frame dwellings that reportedly range in age from 5 to 7 years old. The dwellings range in size from 1,865 to 2,280 square feet of living area and feature basements, four of which have finished areas ranging from 957 to 1,140 square feet, central air conditioning, a fireplace and garages of either 456 or 528 square feet of building area. In his brief, the appellant asserted that comparables #1, #2, #3 and #5 are the same model as the subject and have almost all of the same features.

At hearing, the appellant further contended that the assessor's cost calculation for the subject's finished basement purportedly at \$25 per square foot was excessive for the type of finish work the appellant has performed himself. In addition, the appellant contended the assessor singled out the subject's subdivision by issuing letters to homeowners in the subject's subdivision indicating that unless notified otherwise, the property would be assumed to have a finished basement. (Copy of letter dated June 20, 2008) The appellant asserts that "as far as he knows" the assessor did not send such a letter to other property owners in Dundee Township and therefore, this action of the assessor was discriminatory and unequal.

Since construction the subject dwelling has enjoyed a walkout-style basement, however, the appellant contends that in 2008 the subject was assessed a "new tax" for a walkout basement of \$12,000. Appellant submitted no documentation supporting this contention. Appellant further argued that nearby properties with

English style (full size-window) basements do not have an additional assessment for this feature. Similarly, appellant contends that the subject dwelling has always enjoyed a 136 square foot sunroom, but "the 2008 tax bill includes a 136 square foot increased assessment for my sunroom." Appellant contends that prior assessments reflected this amenity which has existed since the dwelling was constructed. Again, there was no documentation supporting the appellant's claim that a new assessment was made for a sunroom.¹

The appellant also acknowledged that the subject property enjoys a brick paver patio which, at the time of construction, did not require a building permit. Appellant testified at hearing that every home in the subject's subdivision has either a patio or a deck. Specifically, appellant contends that his comparables #1 through #4 have patios, but have not been assessed for their patios.² Appellant did not provide any documentation reflecting the assessment breakdown for these comparables. Appellant further argued that the assessor's office should not assess patios because they are not permanent, do not require a building permit, and are considered 'landscaping' in the town of Dundee.

As a final item of dispute, the appellant noted the property record card for the subject dwelling included under "permit information" a line referencing 'fire suppressions.' There is no indication on the face of the property record card submitted by the appellant that an assessment has been made for this purported amenity. In his submission, the appellant contends that the village has granted a variance to the village ordinance for the subject as the sprinkler system was improperly installed and had to be removed. "To date the assessor's office refuses to deduct anything for this system that was part of the original selling price."³

The five comparables have improvement assessments ranging from \$95,083 to \$110,097 or from \$44.54 to \$50.98 per square foot of living area. The subject has an improvement assessment of \$114,816 or \$50.36 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$110,097 or \$48.29 per square foot of living area.

¹ During the hearing, the 'sunroom' was further described as a room with windows which was a part of the house, heated and cooled like the rest of the dwelling.

² In this regard, the appellant contended that assessing officials came onto the subject property without permission and took photographs of the subject's patio at a time when no appeal was pending. Appellant questioned the actions of the assessing officials, but was informed by the Hearing Officer that the jurisdiction of the Property Tax Appeal Board was limited to determining the correct assessment of the subject property, not to deciding issues of trespass and/or how the assessing officials gather property data.

³ The appellant reported the January 1, 2002 purchase price for the subject property was \$358,089. The subject dwelling's 2008 total assessment of \$144,640 reflects an estimated market value of \$433,920.

In support of the overvaluation argument, the appellant reported sales data for each of the five comparables which were purchased between December 2001 and July 2003 for prices ranging from \$281,740 to \$333,987 or from \$136.40 to \$151.07 per square foot of living area including land. The appellant also reported that the subject was purchased in January 2002 for \$358,089 or \$157.06 per square foot of living area including land. Based on this evidence, the appellant requested a total assessment reduction to \$131,468 which would reflect an estimated market value for the subject of approximately \$394,404 or \$172.98 per square foot of living area including land.

The board of review presented its "Board of Review Notes on Appeal" wherein its final assessment of \$144,640 for the subject property was disclosed. The subject's assessment reflects an estimated market value of \$434,746 or \$190.68 per square foot of living area including land utilizing the 2008 three-year median level of assessments for Kane County of 33.27%. In support of the subject's assessment, the board of review presented a memorandum, a grid analysis of four comparables that are the same model as the subject, an assessment spreadsheet of the 87 properties in the subject's subdivision, and a spreadsheet of subdivision sales from 2005 and 2006.

At hearing, Michael Bielak, Dundee Township Assessor, testified there have been numerous challenges to assessments in the subject's subdivision. In the memorandum and as displayed on the spreadsheet of properties in the subdivision, the assessor reported that homes in the subject's subdivision were "put in at \$125 a square foot, and \$25 for finished basement and garages. We also charge \$12,000 for walk out basements." The assessor reported the assessments were based on a sales study done using 2006 data (copy attached). The assessor's subdivision spreadsheet depicts per square foot charges as follows: dwelling at \$125; garage at \$25; finished basement at \$25; concrete patio at \$15; brick patio at \$25;⁴ enclosed frame porches at \$40; decks at \$18; along with walkout feature for \$12,000; and number of bathrooms at \$8,000 for a full bathroom. According to this spreadsheet, none of the appellant's comparables have a walkout basement and only appellant's comparable #4 is displayed as being assessed for a concrete patio; none of the appellant's other comparables is assessed for a concrete or brick patio or a deck. As to the fire suppression system questioned by the appellant, Bielak testified that those systems were never assessed; only the sales were considered. The assessor contends that differences between improvement assessments reflect differences in amenities.

As to the land assessment issue, as a consequence of the numerous appeals and at the request of the Kane County Board of Review, the township assessor applied a negative adjustment of about \$8,000 to properties located on the northern side of the

⁴ Three properties besides the subject are being charged \$25 per square foot for brick patio; the subject is charged for 104 square feet and three others have brick patio charges for patios ranging from 216 to 392 square feet.

subdivision. Bielak testified that Route 72 is a heavily traveled thoroughfare and though there is "a bit of a buffer" between Route 72 and the homes on the northern side of Wessex Drive, those north-side property owners complained about the traffic noise. Thus, the assessor sought to adjust for that condition.

Bielak further testified that the lots in the subject's subdivision were valued on a site value basis, not on a square foot basis. While Bielak did not have the sales data that was used to arrive at the land assessments, he believed there were three different land assessments within the subdivision. The spreadsheet displaying all subdivision assessments reflect land assessments of \$20,500, \$23,500 or \$28,608; the subject on the spreadsheet displays a land assessment of \$28,608 when the actual 2008 land assessment was \$29,824.⁵ The four comparables presented by the assessor depict land assessments as follows: one at \$21,371; two at \$24,499; and one at \$29,824.

The comparable dwellings are one-story Hansbury SR-3 model frame homes that were built between 2001 and 2003. The dwellings each contain 2,280 square feet of living area and feature finished walkout basements; three comparables have full 2,280 square foot basements and one is like the subject with a 1,412 square foot basement. The homes each have central air conditioning, a fireplace, and a 528 square foot garage. The subject is described as having a 104 square foot open frame porch which is not featured on any of the board of review's comparables. These dwellings have improvement assessments ranging from \$113,975 to \$119,236 or from \$49.99 to \$52.30 per square foot of living area.

The assessor/board of review reported sales of each of these four comparables that occurred between December 2002 and March 2003 ranging from \$321,085 to \$375,970 or from \$140.83 to \$164.90 per square foot of living area including land. As reported on the grid analysis, the subject's estimated market value based on its assessment is approximately \$433,920 or \$190.32 per square foot of living area including land whereas the comparables have estimated market values ranging from \$421,821 to \$431,397 or from \$185.01 to \$189.21 per square foot of living area including land.

The spreadsheet of sales indicates that dwellings in the subject's subdivision that ranged in size from 1,703 to 2,355 square feet of living area (three of which had finished basements) sold between January 2005 and September 2006 for prices ranging from \$308,500 to \$468,000 or from \$155.18 to \$213.78 per square foot of living area including land.

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

⁵ Similarly, the subject's improvement assessment on the spreadsheet was reported as \$95,366 whereas the 2008 improvement assessment was actually \$114,816.

In rebuttal, the appellant submitted 'corrected' grids for the appellant's comparables that purportedly were submitted by the board of review in this matter.⁶ As shown in this data, only appellant's comparable #5 has a walkout style basement like the subject. Comparable #4 has a 350 square foot patio, but this home is smaller than the subject at 1,865 square feet of living area. Appellant reiterated that he spent \$15,000 with the builder to have a walkout basement and should not now be assessed 'twice' for this amenity that he has been paying for since the home was built.

In rebuttal, the appellant also continued to dispute the rationale of the assessing officials in treating parcels that 'back up' to Route 72 differently than parcels in the subdivision which do not 'back up' to Route 72. The appellant also disputed the characterization that his comparable #4, which is on the same side of Wessex Drive as the subject, differs from the subject in any significant manner. Appellant submitted a photograph of the 'backyard' view of comparable #4 from a distance and argued this was open space no different than the subject and other nearby lots. The parcel map appellant submitted, however, clearly shows that his comparable #4 is bordered on three sides by neighboring parcels; although the backyard photograph appears to confirm that there was at the time no fencing or other obstruction to the view of the open space from the rear yard of comparable #4, that parcel is technically surrounded by other parcels and unlike the subject does not back up to open wetland.

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 Board further finds that no reduction in the subject's assessment is warranted on this record.

The appellant in part contends the assessment of the subject property is excessive and not reflective of its 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the evidence in the record does not support a reduction in the subject's assessment on grounds of overvaluation.

Except in counties with more than 200,000 inhabitants which classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). The appellant repeatedly argued that his sale price of \$358,089 in January 2002 has resulted in the assessment of the subject property, but no evidence was presented to establish that assertion. The Property Tax Appeal Board finds assessors and boards of review are required by the Property Tax Code to revise and correct real

⁶ The data will be examined, however, the record of the Property Tax Appeal Board did not include these grids from the board of review. The entire board of review submission was outlined previously in this decision.

property assessments, annually if necessary, that reflect fair market value, maintain uniformity of assessments, and are fair and just. The board of review submitted sales data from 2005 and 2006 reflecting sale prices ranging from \$308,500 to \$468,000 or from \$155.18 to \$213.78 per square foot of living area including land. The appellant provided evidence of five sales which occurred between 2001 and 2003, more distant in time, and ranging from \$281,740 to \$333,987 or from \$136.40 to \$151.07 per square foot of living area including land. The Property Tax Appeal Board gives more weight to the sales presented by the board of review as these sales were more proximate in time to the assessment date at issue of January 1, 2008. The subject property, based on its assessment, has an estimated market value of \$434,746 or \$190.68 per square foot of living area including land, which is within the range of the more recent sales presented by the board of review. Thus, no reduction in the subject's assessment for overvaluation is warranted.

The appellant also contends unequal treatment in the subject's assessment as a 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 assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The parties presented specific grid analyses of nine comparable properties. In addition, the board of review presented a spreadsheet with assessment data (which was not for 2008) for all 87 properties in the subject's subdivision.

As to the land inequity argument, from the 2008 assessment data presented by both parties, the evidence revealed land assessments were either \$21,371, \$24,499 or \$29,824 per lot or parcel. The subject parcel has a 2008 land assessment of \$29,824. The township assessor testified that the parcels in the subject's subdivision were assessed on a site value basis, not on a per-square-foot basis. Based on this record with the subject having a land assessment identical to that of several other parcels, the appellant has failed to establish a lack of uniformity in the subject's land assessment by clear and convincing evidence. The appellant's primary dispute with the land assessment was the reduction afforded to those parcels backing up to Route 72, but the appellant failed to establish how the assessor's determination was not applied in a uniform manner. On this record, no reduction in the subject's land assessment is warranted.

As to the improvement inequity argument, the parties submitted nine comparable properties to support their respective positions before the Board. The Board has given less weight to appellant's comparable #4 due to its slightly smaller dwelling size. The Board finds the remaining eight comparables presented by both parties were similar to the subject dwelling in location, size,

style, exterior construction, features and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$101,542 to \$119,236 or from \$44.53 to \$52.30 per square foot of living area. The subject's improvement assessment of \$114,816 or \$50.36 per square foot of living area is within this range. There was also no dispute that the subject dwelling enjoyed some features and/or amenities not enjoyed by each of these comparables. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted.

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 taxation 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 appellant 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. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the 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

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.