



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

APPELLANT: Robert W. Wilson
DOCKET NO.: 08-02812.001-R-1
PARCEL NO.: 14-2-15-34-11-201-070

The parties of record before the Property Tax Appeal Board are Robert W. Wilson, the appellant; 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: \$10,550
IMPR.: \$47,950
TOTAL: \$58,500

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a residential property located in Edwardsville Township, Madison County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming the subject's 2008 assessment subsequent to equalization was incorrect based upon a contention of law. The appellant argued the application of a positive 2008 equalization factor of 1.0322 to the 2008 base assessment amount of \$56,670 is unconscionable and constructively fraudulent based on articles and information documenting a declining real estate market.

In support of the accusation of constructive fraud, the appellant referenced the Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 90, 322 N.E.2d 833, 836 (1974)). The appellant also submitted Exhibit A, an article from Microsoft Network "Money" indicating a 27% decline in the housing market since 2006 and forecasting a 42% decrease before the housing market rebounds. The appellant also included a May 2009 Wall Street Journal article disclosing a 14% decline in the U.S. median house price.

In response to a November 15, 2010 notice from the Property Tax Appeal Board notifying the appellant that all information for the 2008 appeal has been sent to the County, the appellant submitted a cover letter dated November 22, 2010 as well as a Submission of Facts and Legal Brief and six pages of articles from various newspapers. This information was not forwarded to the County due to its being filed past the appellant's submission deadline.

The Property Tax Appeal Board finds this additional information was not timely submitted and will not be made part of the evidence in the record. The appellant had until September 3, 2010 to submit evidence for this appeal. The appellant's additional submission was dated November 22, 2010, which was not timely.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$43,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$58,500 was disclosed. In support of the subject's assessment, the board of review submitted a one page brief and the subject's property record card. The property record card establishes a replacement cost new for all the subject's improvements of \$117,840 and a total land value of \$25,920. The brief states that the appellant's appeal is based on the application of the 2008 Edwardsville Township multiplier of 1.0322. The board of review argued that the most relief the appellant could receive would be the removal of the township multiplier. In addition, the board of review argued that the appellant's constructive fraud argument is irrelevant, since the constructive fraud standard was eliminated after amendments to the Property Tax Code.

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

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds no reduction in the subject's assessment is warranted.

The appellant argued the subject property was overvalued. When market value is the basis of the appeal, the value 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 appellant has not met this burden of proof.

The appellant argued the subject property was overvalued based on constructive fraud and referenced Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 90, 322 N.E.2d 833, 836 (1974)).

The Board finds the appellant has the burden to prove the subject is overvalued by a preponderance of the evidence, not

constructive fraud. The Board further finds the best evidence in the record, albeit the cost approach, is the subject's property record card's computation ladder. The appellant did not provide any specific evidence concerning the fair market value of the subject property. The appellant's articles concerning the general decline in the housing market are not probative of the fair market value of the subject property as of the subject's January 1, 2008 assessment date. Furthermore, the appellant requested a reduction greater than the amount of increase caused by the application of the township equalization factor.

The record indicates that the appellant did not file a complaint with the board of review but appealed the assessment directly to the Property Tax Appeal Board based on notice of an equalization factor. Since the appeal was filed after notification of an equalization factor, the amount of relief that the Property Tax Appeal Board can grant is limited. Section 1910.60(a) of the Official Rules of the Property Tax Appeal Board states in part:

If the taxpayer or owner of property files a petition within 30 days after the postmark date of the written notice of the application of final, adopted township equalization factors, the relief the Property Tax Appeal Board may grant is limited to the amount of the increase caused by the application of the township equalization factor. 86 Ill.Admin.Code §1910.60(a).

Additionally, section 16-180 of the Property Tax Code (35 ILCS 200/16-180) provides in pertinent part:

Where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalization factor assigned to all property or to a class of property by the board of review, the Property Tax Appeal Board may not grant a reduction in the assessment greater than the amount that was added as the result of the equalization factor.

These provisions mean that where a taxpayer files an appeal directly to the Property Tax Appeal Board after notice of application of an equalization factor, the Board cannot grant an assessment reduction greater than the amount of increase caused by the equalization factor. Villa Retirement Apartments, Inc. v. Property Tax Appeal Board, 302 Ill.App.3d 745, 753 (4th Dist. 1999). Based on a review of the evidence contained in the record, the Property Tax Appeal Board finds no reduction in the assessment of the subject property is supported.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: December 21, 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.