



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

APPELLANT: Kenneth & Emma Everett
DOCKET NO.: 08-03298.001-R-1
PARCEL NO.: 03-20-403-012

The parties of record before the Property Tax Appeal Board are Kenneth & Emma Everett, the appellants, 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: \$105,064
TOTAL: \$134,888

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 7,841 square feet of land area is improved with a one-story single-family dwelling of frame and masonry construction containing 1,988 square feet of living area. The dwelling is 6 years old. Features of the home include a full walkout-style basement finished as a recreation room, central air conditioning, a fireplace and a two-car attached garage of 453 square feet of building area. The subject is located in a subdivision known as Carrington Reserve in West Dundee, Dundee Township, Kane County.

The appellants' appeal is based on unequal treatment in the assessment process as to both land and improvement assessments and overvaluation. As to the overvaluation claim, the appellants submitted sales data on the same four comparables for which equity data was presented. However, the sales presented occurred from May 2002 to March 2003. Since these sales occurred in excess of 4 ½ years prior to the assessment date at issue of January 1, 2008, the Property Tax Appeal Board finds that such sales cannot be considered indicative of the market value of the subject as of the assessment date since they are not proximate in time and therefore, the appellants'

overvaluation argument relying upon these four sales will not be further addressed on this record.¹

As to the land inequity argument, the appellants presented Exhibit B. The appellants contend this data shows the subject lacks uniformity in land assessment "when compared to other subdivisions. No other subdivision of similar age or in close proximity to subject subdivision has been singled out and assessed differently based on their lot location within their subdivision." To support this contention, the appellants presented data on Grand Pointe Subdivision which is to the north of the subject's subdivision and on Carrington Reserve Timbers and Valleys which is to the south of the subject's subdivision. The appellants contend that each parcel in Grand Pointe, regardless of size, is assessed at \$26,133. Similarly, the appellants contend that each parcel in Carrington Reserve Timbers and Valleys is assessed, regardless of size, at \$29,824

As to the subject's subdivision, the appellants acknowledged that owners' complaints regarding noise on Route 72 caused the Dundee Township Assessor to lower land assessments due to that nuisance. The appellants contend that the noise travels to the subject property as well, but no assessment reduction was afforded to the subject parcel. The appellants submitted Exhibit C addressing traffic noise and data on damping of sound level with distance. The appellants agree that the subject parcel overlooks "the wetland" from the rear of the dwelling. The appellants acknowledge that the subdivision's parcels which back up to the wetland are assessed at \$29,824, that each parcel that backs to Route 72 has a land assessment of \$21,371, and that some interior parcels have a land assessment of \$24,499.

The appellants assert that 50% of the growth in the wetlands (non-native trees) were cut and burned since the property was purchased and prairie grass was planted. The appellants then describe various views of this wetland from the subject parcel and summarized the view as "a wild appearance." In contrast, the parcels on the northern side of the subdivision which back to Route 72 have a footpath along landscaped areas of bushes, mature pine and deciduous trees. Appellants contend these cultivated areas may appeal to homeowners over the wild wetland area.

Furthermore, appellants contend as shown in comparables #5 through #8 that properties located in Saddle Club and Deer Creek subdivisions have uniform land assessments of \$32,277 and \$29,081, respectively.

The appellants' land inequity argument is further argued in Section V of the grid analysis where four parcels on the "north side" of the subdivision have land assessments of \$21,371. Based on this evidence, the appellants requested the land assessment of

¹ The appellants also reported that the subject dwelling was purchased in November 2002 for \$357,610 or \$179.88 per square foot of living area including land.

the subject be reduced to \$21,371 for the same noise nuisance as those parcels that back up to Route 72.

As to the improvement inequity argument, the appellants submitted information in Section V of the Residential Appeal petition on four comparable properties located in the Carrington Reserve subdivision. Each comparable is a one-story dwelling of frame exterior construction. The homes were 5 or 6 years old and range in size from 1,988 to 2,280 square feet of living area. Features include full or partial basements, two of which are partially finished. Each home has central air conditioning and a two-car garage. Two of the comparables have a fireplace. The comparables have improvement assessments ranging from \$86,716 to \$110,097 or from \$43.62 to \$48.29 per square foot of living area. The subject's improvement assessment is \$105,064 or \$52.85 per square foot of living area. Based on this evidence, the appellants requested a reduction in the subject's improvement assessment to \$95,064 or \$47.82 per square foot of living area.

In addition, the appellants questioned the actions of the Dundee Township Assessor in issuing a letter (Exhibit D) to the subject's subdivision regarding finished basements and/or the request for a view of basements. The appellants questioned whether the assessor could engage in such an investigative tactic for only one subdivision within the assessor's jurisdiction.

The appellants also object to be assessed for a walkout basement since the dwelling was purchased. "[W]e paid the builder for the home which included the 'walkout' while other lower priced homes have been paying less tax from the beginning of occupancy."

Lastly, the appellants contend the subject is being assessed for a fire suppression system (estimated value of \$10,000) which has been removed. The appellants assert that the township assessor has refused to make an adjustment to the subject's improvement assessment for the removal of this system. (See also Exhibit E, identifying which properties have these systems).

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$134,888 was disclosed. The subject's assessment reflects an estimated market value of \$405,434 or \$203.94 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 two grid analyses with a total of five suggested comparables located in the subject's subdivision.² The comparables are one-story, Steinbeck model, frame and masonry dwellings that were 5 or 6 years old. The dwellings each contain 1,988 square feet of living area. Features include walkout-style

² The second grid analysis repeats three of the comparables from the first grid, but adds a new comparable which will be identified herein as comparable #5.

basements, four of which include finished area. Each dwelling has central air conditioning, a fireplace and a 453 square foot garage. These properties have improvement assessments ranging from \$93,018 to \$107,650 or from \$46.79 to \$53.50 per square foot of living area. The parcels had land assessments of either \$24,499 or \$29,824 with the lesser land assessment being described as an "interior lot" and the higher land assessment being described as a "premium" lot.

The board of review also reported the most recent sales of these comparable properties for comparables #1 and #5. These two properties sold in April and September 2006 for prices of \$425,000 and \$372,500, respectively, or for \$213.78 and \$187.37 per square foot of living area including land.

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

In written rebuttal, the appellants reiterated the points and issues outlined in the appellants' original submission regarding the land assessment differences between the subject and parcels that back up to Route 72, but which also enjoy a maintained 'common area' that is landscaped and paid for by the local homeowners' association. Likewise, the appellants reiterate that assessing amenities such as a walkout basement is inappropriate if assessed only in the subject's subdivision. Furthermore, if the subject is to be assessed for such an amenity, removal of the fire suppression system should also be factored into the subject's improvement assessment.

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

The appellants in part contend 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 Property Tax Appeal Board finds assessors and boards of review are required by the Property Tax Code to revise and correct real 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 2006 reflecting sale prices of \$425,000 and \$372,500, respectively, or for \$213.78 and \$187.37 per square foot of living area including land. The appellants provided evidence of four sales which

occurred in 2002 and 2003, more distant in time, and ranging from \$296,865 to \$325,490 or from \$142.66 to \$149.33 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 \$405,434 or \$203.94 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 appellants also contend assessment inequity as the basis of the appeal regarding both the land and improvement assessments. 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, 544 N.E.2d 762, 136 Ill.Dec. 76 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction

Section 9-155 of the Property Tax Code provides in part that:

Valuation in general assessment years. On or before June 1 in each general assessment year in all counties with less than 3,000,000 inhabitants. . . the assessor, in person or by deputy, shall actually view and determine as near as practicable the value of each property listed for taxation as of January 1 of that year. . . and assess the property at 33 1/3% of its fair cash value. . . .

35 ILCS 200/9-155. The appellants contend that parcels in subject's subdivision, including the subject parcel, have not been treated uniformly in land assessment within and/or outside the subject's subdivision.

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, 169 N.E.2d 769 (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, 544 N.E.2d 762, 136 Ill.Dec. 76 (fair cash value is the cornerstone of uniform assessment.) It is unconstitutional for one kind of property within a taxing district to be taxed at 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, 544 N.E.2d 762, 136 Ill.Dec. 76; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax

Appeal Board, 181 Ill.2d 228, 234, 692 N.E.2d 260, 229 Ill.Dec. 487 (1998).

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 Property Tax Appeal Board finds assessing officials are required by the Property Tax Code to revise and correct real property assessments, annually if necessary, that reflect fair market value, maintain uniformity of assessments, and are fair and just. (See 35 ILCS 200/9-75). Based on the record evidence which focuses on uniformity of assessments within the subject's subdivision, the Board finds that there is no basis to allege inequity in assessments.

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 appellants conceded 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 that back up to the wetland area, the appellants have failed to establish a lack of uniformity in the subject's land assessment by clear and convincing evidence. The appellants' primary dispute with the land assessment was the differences in land assessments afforded to parcels backing up to Route 72 and to interior lots, but the appellants 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 suggested comparable properties to support their respective positions before the Property Tax Appeal Board. The Board finds appellants' comparable #4 and the comparables presented by the board of review were most similar to the subject dwelling in location, size, style, exterior construction, features and/or age. Due to their similarities to the subject, these properties were given the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$86,716 to \$107,650 or from \$43.62 to \$54.15 per square foot of living area. The subject's improvement assessment of \$105,064 or \$52.85 per square foot of living area is within this range. 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 appellants 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 appellants have 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

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: June 22, 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.