



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

APPELLANT: Karen Anderson
DOCKET NO.: 08-03300.001-R-1
PARCEL NO.: 03-20-427-007

The parties of record before the Property Tax Appeal Board are Karen Anderson, 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: \$119,179
TOTAL: \$149,003

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 6,534 square feet of land area is improved with a one-story single-family dwelling of frame construction containing 2,392 square feet of living area. The dwelling is 6 years old. Features of the home, known as a Hansbury model, include a partial walkout-style basement finished as a recreation room, central air conditioning, a fireplace and a two-car attached garage of 528 square feet of building area. The subject is located in a subdivision known as Carrington Reserve Enclave in West Dundee, Dundee Township, Kane County.

The appellant's 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 appellant submitted sales data for the same eight comparables for which equity data was presented. However, the sales presented occurred from December 2001 to July 2003. Since these sales occurred at least 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 appellant's overvaluation argument relying upon these eight sales will not be further addressed on this record.

The appellant also presented Exhibit A which includes a chart of "homes sold in 2005 - 2007" with slightly more detailed information on eight "most recent" sales of Hansbury model properties with basements as shown in website versions of property record cards. Analyzing this raw data, these one-story dwellings are described as ranging in age from 5 to 7 years old and ranging in size from 2,144 to 2,392 square feet of living area. Each has a full or partial basement, central air conditioning and a fireplace. No other substantive descriptive data for these properties was presented in Exhibit A. The sales occurred from February 2005 to May 2006 for prices ranging from \$367,500 to \$420,000 or from \$168.42 to \$178.17 per square foot of living area including land.¹

As to the land inequity argument, the appellant presented Exhibit B. The appellant contends 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 appellant 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 appellant contends that each parcel in Grand Pointe, regardless of size, is assessed at \$26,133. Similarly, the appellant contends that each parcel in Carrington Reserve Timbers and Valleys is assessed, regardless of size, at \$29,824

As to the subject's subdivision, the appellant acknowledged that owners' complaints regarding noise on Route 72 caused the Dundee Township Assessor to lower land assessments due to that nuisance. The appellant contends the "very same noise can be heard from the subject parcel" which does not back up to Route 72 and did not receive a land assessment reduction. The appellant also contends that everyone in the entire subdivision can hear Route 72 whether it is from their front door or their back door. In Exhibit C, the appellant presented a color-coded parcel map depicting, among other things, that the subject parcel backs up to a wetland. The appellant contends 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. Photographs from the backyard of the subject property depict open wetlands in all directions away from the dwelling. Also in Exhibit C, the appellant included backyard photographs 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. Based on this evidence, the appellant requested the land assessment of the subject be reduced by \$8,000 for the same noise nuisance as those parcels that back up to Route 72.

¹ The appellant also reported that the subject dwelling was purchased in June 2002 for \$370,090 or \$158.48 per square foot of living area including land.

As to the improvement inequity argument, the appellant submitted information in Section V of the Residential Appeal petition on eight comparable properties located in the Carrington Reserve subdivision. Each comparable dwelling is a Hansbury model, one-story of frame and masonry exterior construction. The homes were 6 to 8 years old and range in size from 2,144 to 2,392 square feet of living area. Features include full or partial basements which are fully or partially finished. Each home has central air conditioning, a fireplace and a 528 square foot garage. The comparables have improvement assessments ranging from \$111,568 to \$119,236 or from \$48.49 to \$52.88 per square foot of living area. The subject's improvement assessment is \$119,179 or \$49.82 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$115,757 or \$48.39 per square foot of living area.

In addition, the appellant 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 appellant questioned whether the assessor could engage in such an investigative tactic for only one subdivision within the assessor's jurisdiction.

The appellant also contends the subject is being assessed for a fire suppression system (estimated value of \$10,000) which has been removed. She further asserts that the township assessor has refused to make an adjustment to the subject's improvement assessment for the removal of this system.

Lastly, the appellant contends that the subject dwelling has been assessed (and paying taxes) on a walkout basement since the dwelling was purchased. The additional \$12,000 assessment for a walkout basement is asserted to be inappropriate when "lookout" basements are not additionally assessed and "are more expensive than a regular basement." The appellant also questions whether the assessing officials can single out the subject's subdivision for a walking/photo tour of backyards to check for walkouts and finished basements if this was not done in each neighborhood in the township.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$149,003 was disclosed. The subject's assessment reflects an estimated market value of \$447,860 or \$187.23 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 grid analysis of four suggested comparables, one of which was presented previously as appellant's comparable #5. The comparables are one-story, Hansbury model, frame or frame and masonry dwellings that range in age from 5 to 7 years old. The dwellings contain either 2,280 or 2,392 square feet of living area. Features include basements, three of which are walkout-

style and one of which is a lookout style. Three basements are finished as recreation rooms and one is finished as living area. Each dwelling has central air conditioning, a fireplace and a 528 square foot garage. These properties have improvement assessments ranging from \$113,975 to \$124,810 or from \$49.77 to \$52.30 per square foot of living area.

The board of review also reported the most recent sales of these four comparable properties. As noted previously with the appellant's evidence, three of the comparables include sales data from 2001 and 2003 which is too distant in time to be relevant to the subject's estimated market value as of January 1, 2008. Board of review comparable #1 sold in July 2005 for \$420,000 or \$175.59 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 appellant reiterated the points and issues outlined in the appellant's original submission. Appellant also submitted Exhibit E, a copy of the subject's property record card, in support of the contention that the fire suppression system is part of the subject's assessment. In this regard, the appellant highlighted the notation under "Permit Information" that in October 2006 a building permit issued for "\$10,000 fire suppressions." There is no indication on this document that a fire suppression system is part of a cost ladder used in determining 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 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 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 parties submitted sales data from 2005 and 2006 reflecting sale prices ranging from \$367,500 to \$420,000 or from \$168.42 to \$178.17 per square foot of living area including land. The Property Tax Appeal Board gives most weight to these most recent sales presented by both parties 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 \$447,860 or \$187.23 per square foot of living area including land, which is only slightly above the range of these somewhat dated sales presented by the parties. Given the sales data on this record, no reduction in the subject's assessment for overvaluation is warranted.

The appellant also contends 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 appellant contends that parcels in subject's subdivision, including the subject parcel, have not been treated uniformly in terms of land assessment.

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.

The parties presented specific grid analyses of eleven comparable properties. 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 appellant 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 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 differences in land assessments afforded to parcels backing up to Route 72 and to interior lots, 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 eleven comparable properties to support their respective positions before the Board. The Board finds the comparables presented by both parties were similar to the subject dwelling in location, size, style, exterior construction, features and/or age. The comparables had improvement assessments that ranged from \$111,568 to \$124,810 or from \$48.49 to \$52.67 per square foot of living area. The subject's improvement assessment of \$119,179 or \$49.82 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 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Marko M. Louie

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.