



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

APPELLANT: Kazimierz & Natalia Massalski
DOCKET NO.: 08-03861.001-R-1
PARCEL NO.: 05-34-202-016

The parties of record before the Property Tax Appeal Board are Kazimierz and Natalia Massalski, the appellant, and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$20,460
IMPR.: \$96,690
TOTAL: \$117,150**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story single family dwelling of brick construction that contains 1,546 square feet of living area. The subject dwelling was constructed in 1957 and is approximately 52 years old. Features of the home include a full basement that is partially finished, two fireplaces one of which is located in the basement and a two-car attached garage. The property is located in Glen Ellyn, Milton Township, DuPage County.

The appellants appeared before the Property Tax Appeal contending both overvaluation and assessment inequity. In support of the overvaluation argument the appellants submitted an appraisal prepared by Kendra V. Coronado of Robert E. Headrick & Associates, Inc. The appraisal indicated that Coronado is a state certified appraiser. The appraisal further indicated the Lender/Client was Jean Cooper of Oxford Bank and Trust and the appraisal was to be used for a mortgage finance transaction only. The appraisal contained an estimate of value of \$310,000 as of June 6, 2008. The appraiser was not present at the hearing. The board of review objected to the appraisal due to the non-appearance of the appraiser and the inability to cross-examine the appraiser about the report. The Property Tax Appeal Board sustains the objection to the extent it goes the estimate of

value contained in report. The Board, however, will consider the raw comparable sales data contained in the appraisal.

The appraisal contained three comparable sales located in Glen Ellyn that are improved with one-story dwellings that ranged in size from 1,617 to 1,887 square feet of living area. The dwellings ranged in age from 38 to 50 years old and were of brick or frame exterior construction. Comparable #1 had no basement, comparable #2 had a unfinished walk-out basement and comparable #3 had a full finished basement. One comparable had central air conditioning, two comparables had fireplaces and each comparable had a two-car attached garage. These properties sold from November 2007 to March 2008 for prices ranging from \$275,000 to \$355,000 or from \$167.68 to \$188.13 per square foot of living area.

In support of the assessment inequity argument the appellants provided analysis using seven comparable properties, which included the three comparable sales in the appraisal. The comparables have the same neighborhood codes as the subject property. The comparables are described as being improved with one-story dwellings that range in size from 1,519 to 1,887 square feet of living area. The appellants also indicated the comparables have brick or brick and siding exteriors and range in age from 41 to 52 years old. Six of the comparables have basements with four being partially finished, five comparables have central air conditioning, six comparables have fireplaces and each has a two-car attached garage. These properties have improvement assessments that ranged from \$77,650 to \$114,280 or from \$47.35 to \$60.56 per square foot of living area. The subject has an improvement assessment of \$96,690 or \$62.54 per square foot of living area.

At the hearing the appellants discussed the location of the subject and the comparables and further argued that the board of review comparables located along on Red Oak Drive had a superior location compared to the subject's location. The appellants further testified that a construction company is being operated out of a home located across the street from the subject dwelling. The record also contained photographs of the subject and the appellants' comparables. As a final point the appellants provided a copy of their Allstate Insurance Company homeowners policy declarations for the subject property indicating the dwelling had a replacement cost guarantee of \$360,040 for the period from June 21, 2009 to June 21, 2010.

Based on this record the appellants requested the subject's assessment be reduced to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$117,150 was disclosed. The subject's assessment reflects a market value of \$352,119 or \$227.76 per square foot of living area, including land, when using the 2008 three year average median level of assessments for DuPage County of 33.27%. The

subject has an improvement assessment of \$96,690 or \$62.54 per square foot of living area. In support of the assessment the board of review submitted Addendum to Board of Review Notes on Appeal and Exhibit #1, an assessment data sheet that listed the appellants' comparables and the comparables selected by the township assessor.

In support of the assessment six comparables were identified that are improved with one-story dwellings that ranged in size from 1,293 to 1,744 square feet of living area. Four of the comparables had the same neighborhood code as the subject while two were located in a different neighborhood. Three comparables had brick exterior construction and three had frame construction. The dwellings were built from 1956 to 1962. Each comparable had a full basement with each being either partially or fully finished. Four of the comparables had central air conditioning, each comparable had one or two fireplaces, one comparable had a carport and five comparables had an attached two-car garage. The comparables sold from June 2005 to January 2008 for prices ranging from \$320,000 to \$530,000 or from \$232.14 to \$327.97 per square foot of living area, land included. These same comparables had improvement assessments ranging from \$80,800¹ to \$129,240 or from \$58.89 to \$75.54 per square foot of living area.

The board of review grid analysis of the appellants' comparables #1 and #2 indicated these properties had different neighborhood codes than the subject.

At the hearing Milton Township Deputy Assessor Karen Corso testified the comparables were selected based in part because they had sold. She also testified that Blackcherry Lane, the street the subject is located on, turns into Red Oak Lane.

In rebuttal the appellants asserted the assessor had "cherry picked" the highest comparables. In support of this assertion the appellants submitted the following tables:

1. Glen Ellyn Woods All Houses sorted by price per square foot.
2. Glen Ellyn Woods All Ranches sorted by price per square foot.
3. Glen Ellyn Woods All Corner Ranches sorted by price per square foot.
4. Blackcherry Lane All Ranches sorted by price per square foot.
5. Ranches Neighboring Subject sorted by price per square foot.
6. Houses Neighboring Subject sorted by price per square foot.
7. Red Oak All Houses sorted descending by price per square foot.

¹ At the hearing the appellants disclosed Assessor's comparable C had the 2008 improvement assessment reduced to \$80,800 or \$58.89 per square foot of living area.

8. Tamarack Drive All Houses sorted by price per square foot.

Each of these tables was designed to demonstrate the subject's improvement assessment was higher than most properties in the area.

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 the appeal. The Board further finds a reduction in the subject's assessment is not supported by the evidence in the record.

The appellants argued in part overvaluation as the basis of the appeal. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the comparable sales in the record do not support a reduction in the subject's assessment is warranted.

Initially, the finds the appellants' appraiser was not present at the hearing to provide testimony and be cross-examined concerning the appraisal process and the conclusion of value contained in the appraisal. Therefore, the Board gives no weight to the conclusion of value contained in the appraisal.

The Board finds the best comparables sales in the record with respect to age, size and features include comparable sale #2 submitted by the appellants and comparables A, C and D submitted by the board of review. These four comparables were improved with one-story dwellings that ranged in size from 1,293 to 1,887 square feet of living area. These comparables were constructed from 1956 to 1963. Each comparable had a full basement with three being finished, two comparables had central air conditioning, each comparable had a fireplace, one comparable had a carport and three comparables had two-car attached garages. These properties sold from January 2007 to March 2008 for prices ranging from \$281,000 to \$507,500 or for unit prices of \$173.78, \$276.80, \$250.00 and \$291.00 per square foot of living area,

including land, respectively. The subject's assessment reflects a market value of \$352,119 or \$227.76 per square foot of living area, including land, which is below the price of three of the four comparables on a square foot basis. Based on these sales the Board finds the subject's assessment is reflective of the property's market value and a reduction is not warranted based on overvaluation.

The appellants also argued assessment inequity 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 assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data the Board finds a reduction is not warranted on this basis.

The Board finds the best equity comparables in the record based on location in the subject's neighborhood, age, size and features include appellants' comparables #4, #6 and #7 and board of review comparables B, C and D. These properties were improved with one-story dwellings ranging in size from 1,372 to 1,744 square feet of living area. The dwellings were built from 1957 to 1961. Each comparable has a basement with five being finished, five comparables have central air conditioning, each comparable has a fireplace, one comparable has a carport and five comparables have two-car attached garages. These properties have improvement assessments that range from \$85,400 to \$129,240 or from \$52.72 to \$75.74 per square foot of living area. The subject has an improvement assessment of \$96,690 or \$62.54 per square foot of living area, which is within the range established by the best comparables in the record. Based on this evidence the Board finds the appellants did not demonstrate assessment inequity by clear and convincing evidence.

The Board finds the appellants submitted voluminous information in rebuttal in support of their contention the township assessor "cherry picked" comparables. The Board finds this evidence did not demonstrate the assessor's office "cherry picked" the comparables it selected. The testimony provided by deputy assessor was that the comparables were selected based in part because they had sold. The testimony provided by the deputy assessor was credible on this point and refuted the appellants' assertion.

The Board further finds section 1910.66(c) of the rules of the Property Tax Appeal Board precludes the Board from considering the appellants' rebuttal documentation as substantive evidence of assessment inequity in this appeal. Section 1910.66(c) of the rules of the Property Tax Appeal Board provides:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded

from submitting its own case in chief in the guise of rebuttal evidence.

86 Ill.Adm.Code 1910.66(c). The rebuttal evidence provided by the appellants consisted primarily of an analysis using new comparables with additional data, which is inappropriate rebuttal evidence pursuant to section 1910.66(c) of the Board's rules and cannot be considered in this appeal as evidence of assessment inequity.`

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 M. Louie

Member

Shawn R. Lerski

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 24, 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.