



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

APPELLANT: Mark Janick
DOCKET NO.: 08-05395.001-R-1
PARCEL NO.: 03-31-302-003

The parties of record before the Property Tax Appeal Board are Mark Janick, the appellant; and the Kendall 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 Kendall County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$37,380
IMPR: \$132,710
TOTAL: \$170,090

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 3.31-acre parcel improved with a five year-old, two-story style frame dwelling that contains 3,684 square feet of living area. Features of the home include central air conditioning, a fireplace, an 850 square foot garage, an in-ground swimming pool and a full, unfinished, walkout style basement. The subject is located in Oswego, Oswego Township, Kendall County.

The appellant appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process regarding the subject's land and improvement assessments and overvaluation as the bases of the appeal. In support of the land inequity argument, the appellant submitted information on eight comparable properties located 300 feet to six miles from the subject. The comparable lots range in size from 0.25 acre to 3+ acres and have land assessments ranging from \$20,890 to \$32,716 or from \$10,813 to \$130,864 per acre of land area. The subject has a land assessment of \$37,380 or \$11,293 per acre of land area.

In support of the improvement inequity argument, the appellant submitted improvement data in a grid analysis of the same eight comparables used to support his land inequity argument. The comparable homes consist of two-story style frame or brick dwellings that are four or five years old and range in size from 2,867 to 4,000 square feet of living area. Features of the comparables include central air conditioning and three-car or four-car garages. Six comparables have a fireplace and one has a full finished basement, while the foundations for seven comparables were not indicated. These properties have improvement assessments ranging from \$98,020 to \$133,410 or from \$31.02 to \$36.40 per square foot of living area. The appellant contends the subject has an improvement assessment of \$132,710 or \$38.08 per square foot of living area.¹

In support of the overvaluation argument, the appellant submitted sales information on the eight comparables used to support his inequity argument. The comparables were reported to have sold between December 2007 and February 2009 for prices ranging from \$280,000 to \$439,000 or from \$70.00 to \$129.97 per square foot of living area including land. Based on this evidence the appellant requested the subject's land assessment be reduced to \$32,170 and its improvement assessment be reduced to \$108,792 or \$31.22 per square foot of living area, based on 3,485 square feet.

During the hearing, the appellant argued the subject's in-ground swimming pool was not an amenity, according to realtors he knows, although he submitted no evidence from the market to support this assertion. He further asserted the board of review's comparables are located in a better subdivision than the subject.

In cross examination, the appellant acknowledged some buyers may consider an in-ground swimming pool an amenity.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$170,090 was disclosed. The subject has an estimated market value of approximately \$517,620 or \$140.50 per square foot of living area including land, as reflected by its assessment and the Kendall County 2008 three-year median level of assessments of 32.86%.

In support of the subject's assessment, the board of review submitted a letter, Multiple Listing Service data sheets, property record cards, PTAX-203 Real Estate Transfer Declarations, photographs and a grid analysis of four comparable properties located 1.5 miles to 2.3 miles from the subject. The comparables have lots ranging in size from 0.97 acre to 1.38 acres and have land assessments ranging from \$27,298 to \$35,414 or from \$25,196 to \$34,383 per acre of land area.

¹ The appellant's grid indicated the subject dwelling contains 3,485 square feet of living area, but no blueprint or floor plan drawing with measurements was submitted to support this contention.

The comparable dwellings consist of two-story style brick and frame homes that range in age from 3 to 13 years and range in size from 3,657 to 3,794 square feet of living area. Features of the comparables include central air conditioning, a fireplace, in-ground pools, garages that contain from 642 to 1,595 square feet of building area and full unfinished basements. These properties have improvement assessments ranging from \$133,987 to \$165,987 or from \$35.32 to \$44.24 per square foot of living area. The subject was depicted as having 3,684 square feet of living area, as indicated on a floor plan drawing on the subject's property record card. Based on this living area, the subject's improvement assessment is \$36.02 per square foot of living area. The board of review's letter stated "Most of the appellant's comparables are compulsory transactions", which, according to the board of review, are not reflective of market value. The board of review's letter further claimed ownership of the appellant's comparable #7 never transferred, even though the MLS indicated it did. The board of review's letter also asserted none of the appellant's comparables has an in-ground swimming pool and only one has a walkout basement like the subject. Finally, the letter argued only comparables #1 and #3 are similar to the subject's lot size.

In support of the subject's estimated market value as reflected by its assessment, the board of review submitted sales information on the same four comparables used to support the subject's assessment. The comparables sold between March 2003 and December 2006 for prices ranging from \$87,000 (lot only) to \$790,000 or from \$158.01 to \$211.63 per square foot of living area including land.

During the hearing, the board of review called Chief County Assessment Officer Andy Nicolletti as a witness. Nicolletti testified the appellant's comparable #8 was a good sale and is similar to the subject in most respects, although its lot is much smaller than the subject. The witness further testified many upscale home buyers expect a swimming pool and he did not agree that a pool adds no value to a home, as claimed by the appellant. Based on this evidence, the board of review requested the subject's assessment be confirmed.

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 Property Tax Appeal Board further finds that a reduction in the subject's assessment is not warranted.

The appellant's first argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that 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). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After

an analysis of the assessment data, the Board finds the appellant has not met this burden.

The Board first finds the parties disputed the subject's living area. The appellant's grid depicted the subject as containing 3,485 square feet of living area, but no evidence to support this figure was submitted. The board of review submitted the subject's property record cards, which included a drawing with measurements to support the board's contention the subject contains 3,684 square feet of living area. Therefore, the Property Tax Appeal Board finds the subject dwelling contains 3,684 square feet of living area.

With respect to the land inequity argument, the Board finds the parties submitted a total of twelve comparable properties. The Board gave less weight to six of the appellant's land comparables because their one-quarter-acre lots were significantly smaller than the subject's 3.31-acre lot. The remaining lots were more similar in size and had land assessments ranging from \$27,298 to \$35,414 or from \$10,813 to \$34,383 per acre of land area. The subject's land assessment of \$37,380 or \$11,293 per acre of land area falls within this range on a per acre basis.

With respect to the improvement inequity argument, the Board gave less weight to the appellant's comparable #2 because it was significantly smaller in living area when compared to the subject. The Board finds the remaining comparables were generally similar to the subject in design, age, size and most features and had improvement assessments ranging from \$105,040 to \$165,987 or from \$31.02 to \$44.24 per square foot of living area. The subject's improvement assessment of \$132,710 or \$36.02 per square foot of living area falls within this range. Therefore, the Board finds the evidence in the record supports the subject's assessment on a per square foot basis.

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 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 parties 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.

The appellant also argued overvaluation as a basis of the appeal. 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). After analyzing the market

evidence submitted, the Board finds the appellant has failed to meet this burden.

The Board gave less weight to the appellant's comparables #1 through #7 because the board of review claimed these sales were compulsory and thus not arm's-length transactions that are reliable indicators of market value. The appellant did not refute this assertion by the board of review. The Board also gave less weight to the board of review's comparables #1, #3 and #4 because they occurred too long before the subject's January 1, 2008 assessment date to reliably indicate a value for the subject. The Board finds the appellant's comparable #8 and the board of review's comparable #2 were similar to the subject in design, age, size and features and sold reasonably proximate to the subject's assessment date for prices of \$439,000 and \$680,000 or \$122.28 and \$181.24 per square foot of living area including land. The subject's estimated market value as reflected by its assessment of \$517,620 or \$140.50 per square foot of living area including land is supported by these two most representative comparables in this record.

In conclusion, the Board finds the appellant has failed to prove assessment inequity by clear and convincing evidence or overvaluation by a preponderance of the evidence and the subject's assessment as determined by the board of review is correct. Thus, 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

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.