



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

APPELLANT: Donald Novelle
DOCKET NO.: 08-05889.001-R-1
PARCEL NO.: 18-014-064-00

The parties of record before the Property Tax Appeal Board are Donald Novelle, the appellant, by attorney David D. Albee in Galena, and the Jo Daviess County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$50,000
IMPR: \$130,235
TOTAL: \$180,235

Subject only to the State multiplier as applicable.

ANALYSIS

The subject .59 acre parcel of land is a greenway lake lot¹ with a lake view. The parcel is improved with a 3-year old,² one-story with a loft, log chalet. Features of the home include a full walkout-style basement which is 70% finished, central air conditioning, two fireplaces, and a two-car garage in the basement level. The property is located in Apple River, Thompson Township, Jo Daviess County.

The initial issue to be resolved is the dwelling size of the subject property. Both the appellant's appraiser and the board of review included schematic drawings of the dwelling. The parties agreed the first floor area contains 2,208 square feet of living area. The difference in size arises from the measurements of the loft area. The board of review reported the loft contains 209 square feet of living area whereas the appellant's appraiser

¹ A greenway lake lot is situated on the lake, but the lot owner does not own the land to the lakeshore. There is a strip of land along the lakefront that is owned by the Apple Canyon Lake Property Owners' Association. (See board of review memorandum & aerial photographs of parcels presented by both parties.)

² The property record card revealed the subject was built in 2005 and a certificate of occupancy was issued on December 11, 2006.

reported the loft contains 264 square feet of living area. Both parties represented that the dwelling size, including specifically the loft area, was obtained from blueprints of the home. At hearing, the appellant's appraiser opined that the difference could be related to the circular staircase that rises to one corner of the loft area. In the absence of any further explanation of the difference in dwelling size, the Board finds the best evidence of the subject's dwelling size was contained in the property record card submitted by the board of review and presumably excluding the area occupied by the circular staircase for a total of 2,417 square feet of living area.

The appellant appeared before the Property Tax Appeal Board through counsel contending that the market value of the subject property is not accurately reflected in its assessed valuation. In support of the overvaluation argument, the appellant submitted an appraisal estimating the subject property had a market value of \$546,000 as of January 1, 2008.

The appraisal was prepared by Michael W. Doyle of Homestead Appraisals, Ltd. who was present at the hearing to testify and be cross-examined with regard to the appraisal report he prepared. Doyle is a State Certified Residential Appraiser and about 20 years ago held the position of Supervisor of Assessments in Jo Daviess County.

The intended use of the report was for tax assessment purposes and the property rights appraised were fee simple. Doyle utilized both the cost and sales comparison approaches in arriving at his opinion of value. The subject property is located in a Planned Unit Development ("PUD") known as Apple Canyon Lake which consists of 2,727 lots with approximately 900 homes as of the appraisal report date. Features of the development include a nine-hole golf course, a marina on a 440 acre man-made lake, a 'good quality' restaurant, and a property owners' association complex including an outdoor pool and tennis courts. Doyle notes in the report that the resale market in the development "has been slow for the past few years." There were approximately 30 sales in the development in 2007 with prices ranging from \$135,000 to \$675,000. He reported values away from the lake have remained stable with approximately 65 to 70 active home listings on the market. As to the market area, Doyle noted there was an oversupply of properties and marketing times exceed six months.

The subject dwelling was further described by the appraiser as featuring granite countertops, vaulted pine ceilings in the main living area of the first floor with a spiral staircase to a small loft. The lower level was finished mostly with drywall versus log and pine for the above-grade living area. The subject lot has been owned by the appellant since 1985.

Under the cost approach, the appraiser estimated the subject's land value at \$105,000 based on "a sale of a lake view lot across the lake from the subject home at 1-A-6 Mustang Lane" which

reportedly occurred in January 2007 for \$105,000. Next using data from local contractors as of December 2008, the appraiser determined a replacement cost new for the subject dwelling with a very good quality rating including the basement, front porch, rear deck, screen porch, fireplaces, lower level finish and lower level garage of \$536,433. Physical depreciation of \$8,958 was calculated using the age/life method in addition to a calculation for external depreciation of \$107,287 "due to the cost of building being much higher than the existing home market will absorb at this time." These deductions resulted in a depreciated value of improvements of \$420,188. Next, a value for site improvements of \$20,000 was added. Thus, under the cost approach, the appraiser estimated a market value of \$545,188 for the subject.

Under the sales comparison approach, the appraiser used three sales of comparable homes located between 1.19 and 1.78 miles from the subject property. The comparables consist of lake view lots that range in size from .31 to .60 of an acre of land area. Each parcel is improved with a log cabin or log chalet dwelling that was a good or very good quality of construction and ranged in age from 5 to 16 years old. The appraiser also reported sales #1 and #3 were built by the same builder who constructed the subject dwelling. The comparables range in size from 1,429 to 1,664 square feet of living area. Each of the comparables has a full basement, one of which is 5% finished, and they feature central air conditioning and decks/porch or a wrap deck. Two of the comparables have a fireplace and sales #1 and #2 have an "association boat dock." These comparables sold between July 2006 and November 2007 for prices ranging from \$290,000 to \$358,000 or from \$201.11 to \$237.93 per square foot of living area including land.

In comparing the comparable properties to the subject, the appraiser made adjustments for view, quality of construction, age, dwelling size, basement size, basement finish, lack of a garage, differences in porch/patio/deck, fireplaces, and "association boat dock." In the report the appraiser acknowledged that the subject was a larger dwelling than the comparables and was also newer, with a finished lower level and lower level garage not enjoyed by the comparables. In addition, the subject has larger log constructed porches and decks than the comparables. Sales #1 and #2 "have association boat docks" which are not owned by the property owner. While the report indicates a further discussion of this topic was contained in an addendum to the report, at hearing the appraiser acknowledged an oversight in that there was no addendum included with this report.³

Doyle testified that the Property Owners' Association owns the boat docks. Moreover, he stated that there are "some boat docks at Apple Canyon that are transferable to a new purchaser with a

³ The witness indicated that his testimony on the boat dock issues, including the paired sales analysis, would be reflective of what would have been presented in the addendum.

cost to the new purchaser." About 5 years ago, the demand for boat docks was so great that there was a 500-person waiting list. As of the time of hearing, Doyle understood the waiting list was substantially smaller. The appraiser further testified that a property owner with a transferable boat dock pays an annual fee to the Property Owners' Association so that they technically do not own the boat dock. Failure to pay the annual fee results in the homeowner losing the boat dock, it reverts back to the Property Owners' Association and it becomes a non-transferable boat dock. Thereafter, the rights to the boat dock would go to an individual on the waiting list. As such, Doyle opined the ongoing question in Jo Daviess County has been whether the boat dock was or was not taxable or assessable property. In this regard, Doyle further posed the question as to whether a boat dock is real property using the standards considered by lenders. Hypothetically, Doyle noted that if a purchase price of \$240,000 includes a transferable boat dock at a value of \$40,000, the rights to the dock and a \$40,000 asset could be lost if the property owner failed to pay the annual fee. As a consequence, Doyle fails to understand how the boat dock could be assessed and/or included in valuation of the property.

Next, Doyle addressed in testimony how the \$40,000 downward adjustment for an association boat dock was estimated in his appraisal through consideration of sales data by performing a paired sales analysis.⁴ Doyle testified that as an appraiser part of his job is to check and verify sales to find out if lot and/or home sales transactions included boat docks, because if the transaction included such an item, it must be removed as it is not real property. Based on his analysis of the data, he found that transferable association boat docks added a contributory value of \$40,000 to a property.

Based on the appraisal, the appellant requested an assessment reduction to \$182,000 to approximately reflect the estimated market value for the subject of \$546,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$190,592 was disclosed. The subject's assessment reflects a market value of approximately \$577,377 or \$238.88 per square foot of living area including land based on 2,417 square feet of living area and

⁴ First, he discussed a July 2007 sale price of \$135,000 for a property in the development, the listing information described a transferable boat dock, and the property record card for this property depicted the sale as \$98,000 plus \$2,000 for personal property resulting in Doyle's determination that \$35,000 was attributable to the boat dock. Second, Doyle discussed a July 2007 transaction where in hand-writing on a listing and sale sheet by Lakeside Realty "the property sold for \$412,500 plus \$40,000 boat dock rights" resulting in a reported sale price of \$452,500. Third, Doyle discussed a September 2007 closing with a sale price of \$475,000 where the "recording" was for \$435,000 "so they also deducted \$40,000 for the boat dock which was right in their backyard." Fourth, Doyle described a vacant lot sale from August 2007 with the boat dock for \$50,000 and the same property was again sold in August 2007 for \$10,000 without the boat dock which again led Doyle to conclude a \$40,000 value for a boat dock.

using the 2008 three-year median level of assessments for Jo Daviess County of 33.01%.

In support of the subject's assessment, the board of review submitted a memorandum along with exhibits. In describing the Apple Canyon Lake Subdivision, the board of review characterized this as a "resort community" with a private 480 acre lake, golf course, campground and property owners' clubhouse.

As to the appellant's appraisal, the board of review acknowledged that the appraiser considered log homes as comparables. As the assessing officials' process includes consideration of sales from 2005, 2006 and 2007 in arriving at a valuation as of January 1, 2008, the board of review in its Exhibit B added an additional comparable sale to those analyzed by the appellant's appraiser. Additional sale #4 is a .47-acre parcel of land improved with a one-story loft log home that was 16 years old. The dwelling contains 1,417 square feet of living area with an unfinished basement,⁵ central air conditioning and a fireplace. The sale occurred in May 2005 for \$406,000 or \$286.52 per square foot of living area. Also, for sales #1 and #2 from the appraisal, the board of review reported dwelling sizes of 1,848 and 1,364 square feet of living area, respectively, which differs from that reported by Doyle; the parties agreed on the dates of sale and sale prices, but the dwelling size differences resulted in slight variances in per-square-foot sale prices. Additionally, for sale #3 presented by Doyle, the board of review deducted \$5,000 for personal property as reported on the transfer declaration resulting in a lower total sale price of \$285,000. In summary, the board of review's grid analysis of all four sales reflects prices ranging from \$285,000 to \$406,000 or from \$193.72 to \$286.52 per square foot of living area including land.

As to transferable boat docks in the development, the board of review stated in its memorandum:

These boat docks are owned by the Apple Canyon Lake Property Owners' Association and leased to the property owners on a yearly basis. When a property owner sells his property, he can also transfer that lease to the new buyer. There is no mention in the deed or on the transfer declaration that a lease is being transferred. Consequently there is no dollar value stated anywhere for this lease. The transfer declaration states the purchase price that was reported to the Dept. of Revenue. Also on Step 4 of the Transfer Declaration, it states 'The buyer and seller hereby verify that to the best of their knowledge and belief, the full actual consideration and facts stated in this declaration are true and correct.' The buyer and seller both sign this declaration.

⁵ In its grid analysis, the board of review acknowledged that after the property was purchased, the basement area was finished by the new owners.

Furthermore, the board of review's memorandum criticized the appraiser's downward adjustments for sales #1 and #2 of \$40,000 for the boat docks contending that the transfer declaration for these transactions "do not list any personal property involved in the sale." Exhibit C consisted of copies of the PTAX-203 Illinois Real Estate Transfer Declarations for the four sales presented by the parties. Furthermore, at hearing, Donna Berlage, Chief County Assessment Officer in Jo Daviess County appeared on behalf of the board of review and testified. As to the appraiser's estimates of value for boat docks (paired sales analysis), Berlage pointed out that as to the July 2007 sale, the value of the boat dock "was already subtracted out before it got here." Likewise, Berlage noted that since the recorded transfer declaration for the September 2007 sale presented \$435,000 as the sale price, the assessing officials were therefore not aware in this instance of a \$475,000 sale price. She further testified that the boat dock issue has been an ongoing battle in the jurisdiction, but the assessors are not assessing for the boat docks. Berlage stated, "we are assessing based on the purchase price that was submitted on the transfer dec[laration]. Looking at that purchase price, we've assumed that that this is the total purchase price of that property minus any personal property so that is what we are basing our values on." She further acknowledged that for the mass appraisal/valuation system used by the Jo Daviess County assessing officials, no paired sales analysis is performed and no specific verification and/or investigation of individual sales transactions occurs.

Also, for pages 2 and 3 of Exhibit B, the board of review presented a spreadsheet of the four sales with adjustments made in the same manner as in the appraisal report, but with exclusion of the boat dock deduction.⁶ From this analysis, the board of review arrived at adjusted sales prices ranging from \$546,460 to \$622,080 or from \$317.33 to \$439.01 per square foot of living area including land.

Exhibit D consisted of documentation of two lot sales for lakeview lots with trees purportedly similar to the subject. The lots contained .70 and .60 acres, respectively, and sold in September 2005 and June 2005 for prices of \$132,500 and \$163,600, respectively.

As a result of its analysis, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment of \$577,377 or \$238.88 per square foot of living area including land.

On cross-examination, Berlage confirmed that all of the assessing data comes from the transfer declaration sheets and brokers are

⁶ There was also evidence the board of review adopted Doyle's dwelling size adjustments of \$80 per square foot. Since sale #4 was 1,000 square feet smaller than the subject, the adjustment presumably should have been +\$80,000, not +\$84,400 as reflected in the grid. There was also a question regarding the bathroom count adjustment for sale #4.

never called. She stated that further inquiry into the sales transactions is a time issue for her office.

In rebuttal at hearing, the appellant's appraiser contended that one of the lot sales in board of review Exhibit D included a boat dock in the transaction despite the lack of a personal property declaration on the PTAX-203 form. Doyle further contended that given the limited number of home sales in the subject development of 53, 30, 18 and 16 in the years of 2006, 2007, 2008 and 2009, the assessing officials could do some further verification of these sales to ascertain if boat docks and/or other personal property were part of the transaction. He further acknowledged that as an appraiser his business is more of a micro process than the county which is a macro process.

As to board of review sale #4, Doyle testified with an effective date of January 1, 2008 for valuation, this would have been a 2 ½ year old sale. Since values and any appreciation came to a standstill in June 2006, Doyle opined consideration of a 2 ½ to 3 year old sale price would not provide a true market value of a property as of January 1, 2008. Furthermore, if an older sale were to be considered, time adjustments to the date of sale would be necessary.⁷

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.

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, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 86 Ill.Admin.Code §1910.65(c). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted.

In determining the fair market value of the subject property, the Property Tax Appeal Board finds the best evidence to be the appellant's appraisal of \$546,000 consisting of a twenty-page report with an effective date of valuation of January 1, 2008. The subject property had a total assessment of \$190,592 which reflects a market value of \$577,377 using the 2008 three year median level of assessments for Jo Daviess County of 33.01%.

The issue before the Property Tax Appeal Board is the determination of the correct assessment of the subject property as of January 1, 2008. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at

⁷ It is noted in the adjusted grid analysis in Exhibit B the board of review did not make an adjustment for date of sale to sale #4.

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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970).

In arriving at an opinion of value, the appellant's appraiser relied primarily on three sales of similar style dwellings which sold between July 2006 and November 2007. More importantly, the board of review, besides some descriptive differences, agreed that the three sales in the appraisal were appropriate properties to examine when considering the subject's market value. The only supplement presented by the board of review was a sale that occurred in May 2005. The Board finds the additional sale suggested by the board of review was least proximate in time to the valuation date of January 1, 2008 at issue in this proceeding and on this basis alone can be afforded the least weight in estimating the subject's market value some 2 ½ years later, particularly where no time adjustment was made to the sale price. The Property Tax Appeal Board further finds that, despite some of the stark differences between the subject property and the comparables utilized by both parties, the appellant's appraiser adjusted the comparables for differences such as view, age, size, basement size, basement finish and other amenities in order to arrive at a value conclusion. Furthermore, the Property Tax Appeal Board finds the appellant's appraiser provided credible, logical and professional testimony regarding the reasonable application of the adjustment amounts, particularly as related to the association boat docks present in sales #1 and #2, in order to arrive at a final value conclusion. Based on this record, the Property Tax Appeal Board finds the subject property has a fair cash value of \$546,000 as of January 1, 2008. In conclusion, the Property Tax Appeal Board finds that despite the board of review's criticisms of the appraisal submitted by the appellant, the report is still the best evidence of the subject's market value in the record.

Based on this analysis, the Property Tax Appeal Board finds the evidence contained in this record has demonstrated the subject property was overvalued by a preponderance of the evidence and a reduction is warranted. Since market value has been established, the 2008 three-year median level of assessments for Jo Daviess County of 33.01% shall be applied. (86 Ill.Admin.Code §1910.50(c)(1)).

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: May 18, 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.