



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

APPELLANT: Robert W. & Julia S. Jessup
DOCKET NO.: 08-05906.001-R-1
PARCEL NO.: 18-002-024-00

The parties of record before the Property Tax Appeal Board are Robert W. & Julia S. Jessup, the appellants, by attorney Ronald J. Leinen, of Vincent, Roth & Toepfer, P.C. in Galena, and the Jo Daviess 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 **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$142,083
IMPR.: \$121,095
TOTAL: \$263,178

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 39,184 square feet has 242' of lake frontage on the main channel of Apple Canyon Lake. The parcel is a "double lot" that is also improved with one single-family dwelling. The property is located in Apple River, Thompson Township, Jo Daviess County.

The appellants appeared before the Property Tax Appeal Board through their legal counsel arguing that the fair market value of the subject parcel was not accurately reflected in its assessment; no dispute was raised concerning the improvement assessment.

In support of the land overvaluation argument, counsel contended that this "double lot" has been improved with a single-family dwelling and legally cannot be further improved with another dwelling. Therefore, the subject parcel is simply an over-sized lot and should be valued as such. Counsel further argued that the comparable sales presented reflect single-lot parcels that

may only be improved with a single dwelling and thereby establish that the subject parcel has been overvalued.

Appellants presented a two-page grid analysis of seven comparable parcels, three of which have been improved with dwellings. The comparable parcels were lakefront lots located in Apple Canyon Lake Subdivision as shown on a map attached to the appeal. The parcels range in size from 21,165 to 33,150 square feet of land area. Appellant also reported the parcels have lake frontages ranging from 85' to 240' and the comparables sold between May 2001 and January 2009 for prices ranging from \$215,000 to \$239,500 or from \$6.79 to \$10.87 per square foot of land area.¹

In argument, counsel further contended that the evidence presented by the board of review was well-presented and further supported the appellants' overvaluation argument. Counsel also conceded that appellants' Sale #3, being from 2001, was dated for the instant 2008 appeal and Sale #6 being from 2009 was past the assessment date. Counsel argued that inherently a 'double lot' which cannot be further built upon is entitled to "some kind of discount" as compared to single lot values. Counsel argued that the land assessment methodology for the subject should reflect a "full value" for one lot and a 40% discount for the second lot. Based on this proposed methodology, the subject would have a land assessment of \$112,500 or a market value of approximately \$337,500 or \$8.61 per square foot of land area.

On cross-examination, it was established that the subject parcel in November 1999 was part of a "lot combination agreement for Lots 24 & 25." Moreover, there was discussion of the assessor's land assessment methodology as it related to parcels that have lot combination agreements like the subject which will be described further herein.

The Board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment was disclosed. The subject has a final land assessment of \$142,083 which reflects an estimated market value of \$430,424 or \$10.98 per square foot of land area using the 2008 three-year median level of assessments for Jo Daviess County of 33.01%.

As to the treatment of lots that have been combined under a "lot combination agreement" like the subject, Donna Berlage, the board of review's representative and the Jo Daviess County Supervisor of Assessments, testified that for assessment purposes one lot will be given full value and the second lot in such an agreement receives a 25% discount on the "full" value. Berlage further testified that any lot combination agreement must be approved by the Apple Canyon Lake Homeowner's Association and requires that

¹ Sale #3 with a sale date of May 2001 and a dwelling built in 1972 suggests that the sale price included the building; the sale dates/age of dwelling and/or unimproved nature of the other six sales comparables suggests those prices reflect the market value of the land only.

the lots forever be combined, be sold together, and there is no ability to split the lots in the future.

In response to the appellants' data, the board noted the dated nature of Sale #3. The board of review also reported that appellants' Sale #6 occurred in 2009 and would not have been considered in the area's sales ratio study to determine assessments.

In presenting evidence in support of the subject's land assessment, the board of review utilized the same vacant land sales presented by appellants excluding Sale #3, modifying Sale #6 to present a 2006 sale price (presented as board of review Sale #5), and presenting four new or additional comparable sales, three of which were improved properties. Board of review Sales #8, #9 and #10 are improved parcels with dates of sale that post-date the year of construction of the dwelling; therefore each of these sale prices reflect the market value of both the land and improvement combined and each of these sales exceed \$600,000 per property.²

In summary, the board of review vacant land sales, Sales #5 and #7, consist of lots of 17,195 and 23,715 square feet each. The lots have 85' and 110' of lake frontage, respectively. The sales occurred in September 2004 and March 2006 for prices of \$225,000 and \$235,000, respectively, or \$9.91 and \$13.09 per square foot of land area.

The board of review contended that for lakeside property like the subject, one critical factor is the lake frontage and the subject property with 242' of lake frontage has about double the typical lake frontage of comparable properties presented. The subject parcel is also located on the 'main channel' which is a little more desirable than being located 'back' in one of the bays. Furthermore, in a memorandum included in their evidence, the board of review recognized that the land sales presented by both parties presented a range in price from \$6.79 to \$13.09 per square foot of land area with the subject having an estimated market value of \$10.87 per square foot,³ which is within the range of the sales on a per-square-foot basis. The board of review also reported that the vacant land comparables ranged in sale price from \$2,040 to \$2,765 per foot of lake frontage and the subject's land assessment reflects a market value of approximately \$1,779 per foot of lake frontage, which is below the range of the comparables on a per-lake-front basis. Lastly, the board of review noted that vacant land sale prices range from \$215,000 to \$235,000 per lot with the subject's estimated market

² Since the appellants have challenged only the land value and the board of review did not address these three sales at the hearing, these comparables will not be addressed further in this decision.

³ The board of review multiplied the land assessment by 3 to calculate the estimated land value; the Property Tax Appeal Board has analyzed the assessment utilizing the 3-year median level of assessments of 33.01%.

value being approximately \$213,125 per lot, again below the range of the comparables on a per-lot basis.

Based on the foregoing data and analysis, the board of review requested confirmation of the subject's estimated market value as reflected by its land assessment.

On cross-examination, the board of review representative agreed that the subject parcel is prohibited from constructing a second dwelling due to the existence of the lot combination agreement. The board representative also testified that a sale price range for vacant land ranging from \$6.79 to \$13.09 per square foot was "not out of line." Only Sale #1 presented by both parties was located on the main channel; the remaining vacant lots were located in bay areas. Sale #1 sold in August 2005 for \$9.48 per square foot of land area and the subject as of January 1, 2008 has an estimated market value of approximately \$10.98 per square foot.

In answer to the Hearing Officer's question regarding land assessment methodology in the subject's area, the board of review representative testified that Apple Canyon Lake lakefront lots were assessed on a site value basis ranging from \$215,000 to \$230,000 per lot (market value) depending on location.

In rebuttal, the appellants through counsel argued that the board of review's evidentiary presentation "ignores the inherent differences in value between single lot values and combined lot values" in the subject's area. Appellants contend that all of the comparables presented are single lot parcels. Counsel argued that the subject's per-square-foot estimated market value is at 88% of the range of sale prices per-square-foot as presented by both parties, although the subject is the largest lot presented. Moreover, the smaller lots would seem to have a higher per-square-foot price than a larger lot, but the subject's estimated market value does not seem to take into account the economies of scale. Counsel further argued that the assessor's discount applied to parcels like the subject that have a lot combination agreement fails to properly reflect the market value of a combined parcel given the sales data presented in this matter.

As part of written rebuttal the appellants also presented data on a two lot parcel (lot combination agreement entered in May 2003) of 45,069 square feet which was not previously presented in appellant's appeal. The property has 188' of lake frontage and in 2008 was given a \$100,000 assessment which would reflect an estimated land market value of approximately \$6.66 per square foot of land area.

At hearing, the board of review moved to strike consideration of the newly presented comparable property as inappropriate rebuttal evidence pursuant to Section 1910.66 of the Official Rules of the Property Tax Appeal Board (86 Ill. Admin. Code, Sec. 1910.66). In a response, appellant's counsel conceded that an assessment equity argument in rebuttal was not "on point."

Pursuant to the Official Rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill. Admin. Code, Sec. 1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill. Admin. Code, Sec. 1910.66(c)). In light of these Rules and the fact this new evidence concerns an equity argument which is not the basis for this appeal, the Property Tax Appeal Board will not consider the proposed new equity comparable submitted by appellants in conjunction with their rebuttal documentation.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellants argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). After an analysis of the evidence, the Board finds the appellants have not overcome this burden.

The record contains seven suggested comparable sales of vacant lots for the Property Tax Appeal Board's consideration. The Board has given little weight to the appellants' argument that there are market value differences between "single lots" and "double lots" like the subject. The Board finds the appellants failed to submit any market value evidence of purported "double lots" like the subject to substantiate a difference in market value between single lots and double lots.

On this record, the Property Tax Appeal Board finds board of review comparables #1 through #7 were the most similar land comparables to the subject property; the first six of these comparables were also presented by the appellants. These parcels sold between September 2004 and July 2008 for prices ranging from \$215,000 to \$235,000 or from \$6.79 to \$13.09 per square foot of land. The subject's land assessment reflects an estimated market value of \$430,424 or \$10.98 per square foot of land. The subject's estimated market value is within the range of the most similar comparables on a per-square-foot basis and appears justified given, in particular, Sale #1 located on the main channel. Sale #1 with 106' of lake frontage sold in August 2005 sold for \$9.48 per square foot of land area or \$2,170 per foot of lake frontage. In comparison, the subject's estimated land value based on its assessment reflects \$1,779 per foot of lake frontage as of January 1, 2008, which is substantially below the per-foot-of-lake-frontage sale price of the most similar property on the main channel. After considering adjustments to the comparables for any differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is not excessive and a reduction in the subject's land assessment is not warranted on this record.

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 J. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: October 22, 2010

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.