



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

APPELLANT: Raymond J. Kelly
DOCKET NO.: 08-06438.001-R-1
PARCEL NO.: 09-07.0-216-006

The parties of record before the Property Tax Appeal Board are Raymond J. Kelly, the appellant, by attorney Andrew C. Rushing of Mathis Marifian & Richter Ltd., Belleville; and the St. Clair 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 St. Clair County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$7,294
IMPR.: \$31,207
TOTAL: \$38,501

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story duplex for frame and brick exterior construction that contains 2,112 square feet of total living area. The duplex has a crawl space foundation, central air conditioning, a fireplace in each unit and two, one-car attached garages. The duplex was constructed in 1992 and is located in Belleville, Shiloh Valley Township, St. Clair County.

The appellant's counsel appeared before the Property Tax Appeal Board contending the subject's assessment was not reflective of the property's market value due to damage caused by mine subsidence. On the Residential Appeal form the appellant indicated that a recent appraisal was to be submitted to the Property Tax Appeal Board as the basis of the appeal. The appellant did not submit an appraisal to support his argument. Instead the appellant's counsel submitted a written statement explaining that the appraised value by the assessor should be assumed correct as a starting point and the estimate of damage to the property resulting from mine subsidence should be used to reduce the value of the property on a dollar for dollar basis. The appellant asserted the property was originally valued at

\$169,308 by the assessor. The appellant submitted a copy of the repair estimate prepared by B.E. Meredith, Consultant dated February 12, 2009, estimating the repair estimate to correct the mine subsidence was \$128,886. Based on this data the appellant estimated the subject had a market value of \$40,422, which would result in an assessment of \$13,474.

To support the conclusion the damage to the subject was caused by mine subsidence the appellant submitted a copy of a First & Final Report signed by Joe A. Robertson, Geologist, of the Illinois Mine Subsidence Insurance Fund dated November 19, 2008. The geologist asserted in the letter that the subject property was being affected by mine subsidence.

At the hearing the appellant called as a witness J. T. McDermott of J. T. McDermott Remodeling Contractors located in Belleville. During the past 14 years he has been engaged in repairing of structures damaged by mine subsidence. The witness testified he reviewed the Illinois Mine Subsidence Insurance Fund First and Final report indicating the property suffered from mine subsidence. McDermott testified the value of the land is affected by mine subsidence. He explained that if there is an active event, building code officials will not allow construction on that site. He testified that he had reviewed the Meredith report and was of the opinion this was a fair and accurate estimate. This damage report reflects the damage as of date of the report. He further explained that an owner can't repair the property until the mine subsidence event is over.

McDermott also testified he reviewed board of review comparable #1, which sold in May 2007. He testified that at that point in time the area was not suffering from mine subsidence. He was of the opinion at this point in time this property sold during the peak market. He further noted that after this comparable was damaged by mine subsidence the assessment was adjusted 30%. He further noted the adjustment to the subject was approximately 30%, which he did not think was sufficient.

Under cross-examination the witness testified the subject property was occupied. The witness testified he did not have any appraisal background and does not have any designation in the field of real estate appraisal. The witness stated he had no designation in the field of real estate assessment. The witness further explained he did not assist in preparing the Meredith report. He further agreed the Meredith report was dated more than a year after the January 1, 2008 assessment date at issue. He further testified he visited the subject property after the mine subsidence event had started in March or April 2008. He testified that as of January 1, 2008, the property would not have been impacted by mine subsidence. He further agreed the Illinois Mine Subsidence Insurance Fund report was dated 11 months after the January 1, 2008 assessment date. The witness further testified the mine subsidence event is ongoing as of the hearing date. He explained that geologists monitor the properties to

determine whether the event is ongoing. He further testified that 20 or 30 homes in the area were impacted by this event.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final equalized assessment of the subject totaling \$40,576 was disclosed. To demonstrate the subject was correctly assessed the board of review provided information on four comparables. Two comparables were two-story duplexes, one comparable was a two-story single family dwelling and one comparable was a one-story duplex. The comparables were located within ½ block of the subject and ranged in size from 1,320 to 2,884 square feet of living area. The duplexes were constructed from 1985 to 2000. Two comparables had basements, each comparable had central air conditioning and each had garages ranging in size from 412 to 624 square feet. The property record cards for the comparables disclosed that each received a 30% obsolescence factor, which was for subsidence. These properties had land assessments ranging from \$3,846 to \$8,336 and improvement assessments ranging from \$21,421 to \$43,053 or from \$14.92 to \$16.02 per square foot of living area. The subject has a land assessment of \$7,687 and an improvement assessment of \$32,889 or \$15.57 per square foot of living area. The subject's property record card also indicated it received a 30% obsolescence factor for subsidence.

The evidence further disclosed that two of the comparables sold in May 2007 and October 2008 for prices of \$102,000 and \$130,000, respectively. The witness explained sale #1 was for ½ of the duplex. She further agreed that the assessment for this comparable was adjusted after the sale to account for mine subsidence.

At the hearing the board of review's representative requested the subject's assessment reduced to \$38,501. This was the assessment of the subject as established by the board of review prior to equalization.

After hearing the testimony and considering 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 the evidence in the record supports a reduction in the subject's assessment.

The appellant argued the subject's assessment was excessive due to mine subsidence. The appellant further requested the subject's assessment be reduced based on the estimated repair costs prepared by B.E. Meredith, Consultant dated February 12, 2009. The report indicated the cost to repair the mine subsidence was \$128,886.

Initially, the Board finds property is to be valued as of January 1. (See 35 ILCS 200/9-175). The testimony provided by McDermott was that the property had not undergone any mine subsidence as of January 1, 2008. He testified that the mine subsidence event began in March or April 2008, three or four months after the

assessment data at issue. Additionally, the appellant provided a repair estimate dated February 12, 2009, estimating the repair estimate to correct the mine subsidence was \$128,886. Besides the fact the appellant did not present the person who prepared the estimate to provide foundational testimony, the estimate does not relate to the January 1, 2008 assessment date or the assessment year at issue. This report was dated more than year after the assessment date at issue. Thus the Board finds this estimate is not probative in establishing the impact on value of the property for the assessment date in question. The Board finds the appellant presented no testimony or evidence establishing the value of the subject property in its diminished state that can be used by this Board to establish the assessment as of January 1, 2008.

The board of review presented data on four comparables located in the subject's neighborhood demonstrating each was receiving a 30% deduction due to mine subsidence. To maintain assessment uniformity and equity, the Board finds the assessment of the subject property should be reduced to the pre-equalized amount in accordance with this data and with the request made by the board of review.

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 A. 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: March 18, 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.