



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

APPELLANT: Joseph & Alicia Dierker
DOCKET NO.: 08-06688.001-R-1
PARCEL NO.: 53-036-03

The parties of record before the Property Tax Appeal Board are Joseph & Alicia Dierker, the appellants, by attorney John R. Simpson, of Sorling Northrup Hanna Cullen & Cochran in Springfield; and the Pike County Board of Review by Special Assistant State's Attorney Christopher E. Sherer of Giffin Winning Cohen & Bodewes, P.C. in Springfield.

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 **Pike** County Board of Review is warranted. The correct assessed valuation of the property is:

F/Land:	\$1,083
Homesite:	\$2,510
Residence:	\$137,420
Outbuildings:	\$3,060
TOTAL:	\$144,073

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of approximately 58.45-acres, much of which is classified as farmland and is not in dispute in this appeal. The 1.81-acre homesite is improved with a 12-year-old, one and one-half-story single-family frame dwelling that contains 4,615 square feet of living area. Features of the home include a full 3,497 square foot basement, with a finished area of approximately 1,200 square feet, central air-conditioning, a fireplace, and an attached two-car garage. Additional features include a 680 square foot in-ground swimming pool, a 576 square foot pool house, and a boat dock. The property is located in Pittsfield, Newburg Township, Pike County.

The appellants submitted evidence to the Property Tax Appeal Board claiming both unequal treatment in the assessment process

and overvaluation as the bases of the appeal. The dispute concerns the improvement assessment only as set forth on the Residential Appeal form.¹

In support of both the inequity and overvaluation arguments, the appellants submitted a grid analysis of four comparable properties said to be located from 2.5-miles from the subject. The comparables were described as two, one and one-half-story, one, two-story, and one, two and one-half-story brick or frame dwellings that range in age from 4 to 49 years old. The dwellings range in size from 3,211 to 4,811 square feet of living area. Each comparable has a basement ranging in size from 1,058 to 1,962 square feet of building area, each of which includes finished area(s), central air-conditioning, and a garage ranging in size from 900 to 1,515 square feet of building area. Three of the comparables have one or two fireplaces. These properties have improvement assessments ranging from \$64,930 to \$125,690 or from \$13.50 to \$32.76 per square foot of living area. The subject has a dwelling or house improvement assessment of \$137,420 or \$29.78 per square foot of living area.

In support of the overvaluation argument, sale data was provided for comparables #1 and #4 in the grid analysis. Comparable #1 is said to have a parcel of 192,535 square feet of land area and comparable #4 has a parcel of 8,100 square feet of land area. These two comparables sold in December 2006 for prices of \$390,000 and \$120,000 or \$81.86 and \$24.94 per square foot of living area including land.

In further support of the inequity and/or overvaluation arguments, the appellants submitted a five-page letter outlining the history of assessments of the subject property along with further arguments including a cross-county analysis of the economies of nearby Morgan and Adams Counties. As part of the data, the appellants argued the subject property has had a 275% assessment increase in 10 years. In the letter, the appellants argued comparable #1 was sold to someone who "based his decision to pay the agreed sale price on factors other than equitable Fair Market Value in arriving at the final purchase price for the property, since the purchase price was considerably above that ever recorded for any previous other residential real estate transactions in the neighborhood or local community, for any sized home." Appellants also noted this sale was on the market in excess of two years and is now in foreclosure.

Appellants also argued that comparable #4 supports a reduction in the subject's assessment, although this comparable dwelling is admittedly older than the subject home.

¹ The 2008 Final Board of Review Notice included farm outbuildings with an assessment of \$3,060 which appellant added to the "house" assessment of \$137,420 on the appeal form. However, appellant provided no descriptive or comparable information regarding the farm outbuilding(s). As such, the appeal concerns solely the dwelling improvement assessment.

Comparable #2 purportedly has been on the market in excess of 4 years with an original list price of \$450,000 that is "now" \$350,000. (See letter from Broker/Owner attached to appeal).

Appellants conclude that other than adding a pool and bathhouse in 1999, the subject property is essentially unchanged since construction in 1998.

Based on this evidence, the appellants requested the subject's dwelling assessment be reduced to \$116,337 or \$25.21 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$144,073 was disclosed. The assessment consists of a farmland assessment of \$1,083, a homesite assessment of \$2,510, outbuildings of \$3,060 and a dwelling improvement assessment of \$137,420. Excluding the farmland and outbuilding(s), the subject homesite and dwelling have a total assessment of \$142,990 for an estimated market value of approximately \$428,970 or \$92.95 per square foot of living area for the dwelling and homesite land area.

In response to the appeal, the board of review submitted an eleven-page memorandum through its counsel with attached Exhibits A through U.

Criticisms of the appellants' four comparable properties included that the properties did not each include farmland, were not located in the same neighborhood code assigned by the assessor as the subject, and varied in age, design, exterior construction and/or number of fireplaces, among other things.

On grounds of equity, the board of review presented three comparable properties in a grid analysis as part of Exhibit A. Comparable #3 is the same property as appellants' comparable #1. These properties are said to be from 4 to 8-miles from the subject property and range in size from 4.42 to 61.780-acres. The comparable parcels are improved with one, one-story and two, one and one-half-story frame or frame and masonry dwellings that were built between 1996 and 2006. The dwellings range in size from 4,764 to 5,587 square feet of living area and feature basements, two of which are finished, central air-conditioning, one or two fireplaces, and a garage ranging in size from 780 to 1,078 square feet of building area. Comparable #1 is said to have a "second dwelling, garage, barn and shed." Comparable #2 has a pole building, in-ground pool and 'pavement.' On the grid analysis, the board of review has provided improvement assessment data for the 'residence with garage' along with separate assessment data for the subject's pool house and pool, comparable #1's second dwelling, and comparable #2's pool and 'curtain.' Analyzing the primary residence with garage, pool and related amenities for each comparable, these properties have improvement assessments ranging from \$122,640 to \$152,400 or from \$21.95 to \$29.29 per square foot of living area. Based on this evidence the board of review requested the subject's improvement

assessment of \$137,420 or \$29.78 per square foot of living area be confirmed.

In criticizing the appellants' two suggested comparable sales and one listing, the board of review notes that appellants' comparable #4 has conflicting sale dates. The appeal information reports sales of this property both in December 2006 and in April 2006, both of which dates are distant in time from the valuation date at issue of January 1, 2008. As to appellants' comparable #1 which is also board of review comparable sale #3, the board of review contends this property sold following a lengthy divorce and settlement wherein the property was not advertised for sale (Exhibit H, Real Estate Transfer Declaration). Moreover, the board of review submitted an appraisal of this property with a valuation date of April 22, 2004 and an estimated market value of \$590,000 (Exhibit G). However, despite the potential non-arm's-length nature of this sale, the board of review contends this sale supports the estimated market value of the subject property as reflected by its assessment.

As to the overvaluation argument, the board of review presented eight comparable properties in a two-page grid analysis as part of Exhibit A. The eight comparable sales were located from 2000 feet to 4-miles from the subject property and consist of parcels ranging in size from .29 to 1.1-acres. The parcels have been improved with five, one-story (one with an attic) and three, one and one-half-story frame dwellings that range in age from 2 to 18 years old. The dwellings range in size from 1,082 to 2,500 square feet of living area and feature full basements, one of which includes 830 square feet of finished area and one of which is a walkout style. Each comparable has central air-conditioning and a garage (or two) ranging in size from 322 to 1,584 square feet of building area. Three comparables have a fireplace. These properties sold between July 2006 and August 2008 for prices ranging from \$155,000 to \$253,000 or from \$89.60 to \$143.26 per square foot of living area including land.

Based on this evidence the board of review requested the subject's assessment be confirmed.

In written rebuttal,² the appellants presented documentation reiterating the 2006 sale price of appellants' comparable #1 for \$390,000 (Exhibit C) and presented new rebuttal data involving a Sheriff's Deed for this same property in 2010 reflecting a sale price of \$336,000 (Exhibit D). This data was submitted in response to the board of review's submission of a 2004 appraisal of this property (Exhibit G). Appellants also criticize the appraisal for the lack of proximity of sales comparables in the report and the dates of sale which are distant in time from the valuation date of January 1, 2008. Lastly, in response to the

² The Board's letter of February 23, 2011, in which a Hearing Officer issued a ruling on the board of review's motion to strike parts of the appellant's rebuttal and the appellant's response thereto, are adopted in full as if set forth fully herein.

purported non-arm's-length nature of the sale of comparable #1, the appellants submitted a letter (Exhibit E) from a broker who asserts that despite the completion of the Real Estate Transfer Declaration (board of review Exhibit H), this property was advertised for 4-5 months prior to its sale in December 2006.

Appellants through counsel also criticized the board of review's sales comparables for dissimilarities in dwelling size and being in subdivision(s) rather than rural like the subject. Appellant also contends that appellant's comparable #4 has been extensively remodeled less than 50 years ago as shown on the property record card.

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 appellants in part argued that the subject's assessment was inequitable because of the percentage increases in its assessment over the previous 10 year period. The Board finds this type of analysis is not an accurate measurement or a persuasive indicator to demonstrate assessment inequity by clear and convincing evidence. The Board finds rising or falling assessments from year to year on a percentage basis do not indicate whether a particular property is inequitably assessed. The assessment methodology and actual assessments together with their salient characteristics of properties must be compared and analyzed to determine whether uniformity of assessments exists. The Board finds assessors and boards of review are required by the Property Tax Code to revise and correct real property assessments, annually if necessary, that reflect fair market value, maintain uniformity of assessments, and are fair and just. This may result in many properties having increased or decreased assessments from year to year of varying amounts and percentage rates depending on prevailing market conditions and prior year's assessments.

Initially the appellants' 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 appellants have not overcome this burden.

The parties submitted a total of six equity comparables for the Board's consideration to support their respective positions. The Board gave less weight to the appellants' comparable #4 due to its age. The Board also gave less weight to appellants' comparables #2 and #3 due to difference in dwelling size and

similarly the Board gave less weight to board of review comparables #1 and #2 due to differences in age and/or size as compared to the subject. The Board finds appellants' comparable #1 and board of review comparable #3, which were the same property, was the most similar comparable to the subject in terms of style, size, features and/or age. This comparable had an improvement assessment of \$26.38 per square foot of living area. The subject's improvement assessment of \$29.78 per square foot of living area is slightly higher than this most similar comparable, but is justified given the subject's additional amenities of a very large unfinished walkout basement, an in-ground swimming pool and pool house. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted on grounds of lack of uniformity of assessment.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. 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 appellants 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. 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 analyzing the market evidence submitted, the Board finds the appellants have failed to overcome this burden.

The parties presented ten comparable sales for the Board's consideration. The Board has given less weight to appellants' sale #4 because the age of the dwelling was substantially older than subject. The Board has also given little weight to the listing appellants presented as comparable #2 since the dwelling is substantially smaller than the subject. Similarly, the Board has given little weight to the eight sales comparables presented by the board of review as they are all dissimilar to the subject in size with the largest dwelling containing 2,500 square feet of living area which is more than 2,000 square feet smaller than the subject dwelling. Thus, the only similar sales comparable presented on this record is appellants' comparable #1 which reflects a December 2006 sale price of \$390,000 or \$81.86 per square foot of living area including land. The subject's assessment for the dwelling and homesite reflects a market value of approximately \$428,970 or \$92.95 per square foot of living area, including land, which is justified given the subject's additional in-ground swimming pool and pool house along with its substantially larger walkout-style basement not enjoyed by sales comparable #1. After considering the most comparable sale on this record, the Board finds the appellants did not demonstrate

the subject property's assessment to be excessive in relation to its market value and a reduction in the subject's assessment is not warranted on this record.

In conclusion, the Board finds the appellants have failed to prove unequal treatment in the assessment process by clear and convincing evidence, or overvaluation by a preponderance of the evidence, and that the subject's assessment as established by the board of review is correct and 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

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: April 22, 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.