



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

APPELLANT: Theodore Wynnnychenko
DOCKET NO.: 08-25053.001-R-1
PARCEL NO.: 04-26-203-059-0000

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

LAND: \$ 12,776
IMPR: \$ 65,306
TOTAL: \$ 78,082

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of an 18,788 square foot parcel of land improved with a 43-year old, one-story, single-family dwelling of frame and masonry construction. The improvement contains 2,561 square feet of living area as well as two full and one half-baths, a partial basement, a fireplace, and a two-car attached garage. The subject is located in Northfield Township, Cook County.

As to procedural matters, the Board noted for the record that the appellant submitted several subpoena requests with accompanying exhibits which were each ruled on prior to this hearing by the Board. Moreover, the parties acknowledged that the appellant brought forth his own tape recorder to record this hearing. Without objection from the board of review's representative, the Board permitted the appellant to tape record the hearing with the proviso that the Board's recording is the official record of this proceeding. The appellant acknowledged this point on the record.

Furthermore, the appellant submitted both a verbal and written request for continuation due to flooding within his home causing him to be unprepared for this hearing. The appellant's written request was identified and marked for the record as Appellant's

Hearing Exhibit #1. Upon due consideration of the parties' positions including the board of review's objection, the Board denied the appellant's request for a continuation of this hearing. The Board offered to delay the hearing for one hour in order to allot the appellant additional time to prepare; however, the appellant declined such an offer.

The appellant argued that there was unequal treatment in the assessment process of the subject's land as the basis of this appeal.

In support of the equity argument, initially, the appellant submitted descriptive and assessment data as well as color photographs for four suggested comparables located on the same block, as is the subject. The properties were improved with a one-story, single-family dwelling with frame, masonry, or frame and masonry exterior construction. The improvements range in size from 2,558 to 3,390 square feet of living area. The properties range in land size from 39,975 to 44,800 square feet, each with a land assessment at \$0.68 per square foot. The subject's land assessment is \$1.20 per square foot. At hearing, the appellant testified that he personally took the photographs of his suggested comparables and stated that they accurately reflect the properties as of the assessment date at issue.

In addition, the appellant's pleadings included various Exhibits. Exhibit A included multiple pages of color photographs of 10 properties. Each property was improved with a one-story, single-family dwelling. The data adjacent to each photograph indicated that the properties contain a land value of \$4.25 per square foot, while the subject property was accorded a land value of \$7.50 per square foot. Exhibit B was a general affidavit of the appellant. The affiant stated that the county assessor's office uses arbitrary lot size 'cutoffs' when determining land assessments, which causes an inequity to the subject's assessment. Moreover, he opined that such a valuation is inherently erroneous as it provides for significant differences in valuation for virtually identical parcels of land. He cited the case of Fiorito v. Jones, wherein the Supreme Court of Illinois stated that when defining classes to be taxed, "the classifications must be based upon real and substantial differences between the persons taxed and those not taxed". Fiorito v. Jones, 39 Ill.2d 531, 236 N.E.2d 698 (1968), Ohio Oil Co. v. Wright, 386 Ill. 206, 53 N.E.2d 966 (1944). The affiant concluded by stating that the county assessor's system for determining land assessments creates a de facto tax classification; and is therefore, unconstitutional.

In support of this assertion, the appellant submitted Exhibit D. This multiple-page Exhibit included locational, size and assessment data on 38 suggested comparables cited within the subject's neighborhood, 19 of which contained the same property classification accorded by the assessor's office, as is the subject property. The appellant testified that the source of the data on these properties was obtained from the county assessor's

website. These properties were identified as being improved with single-family dwellings. The parcels ranged in size from 8,128 to 61,721 square feet of land and in land assessments from \$0.40 to \$0.68 per square foot. In contrast, Exhibit D reflected that the subject property contains 18,788 square feet of land and is accorded a land assessment at \$1.20 per square foot.

Further, the appellant submitted a copy of an aerial map of the subject's immediate neighborhood, identified for the record as Exhibit C. At hearing, the appellant testified regarding Exhibit C stating that he had placed the parcel identification numbers (hereinafter PIN), and assessment data per square foot on each of the 38 designated properties which surround the subject's property. He indicated that the source of the data thereon was obtained from the assessor's website. He also stated that the aerial map comprising Exhibit C as well as other aerial maps included within his rebuttal evidence were all obtained from the assessor's website.

Moreover, the appellant's pleadings included Exhibits E through G. Exhibit E was a three-page Exhibit including copies of pages from the county board of review's website explaining how to present a case based on lack of uniformity. Exhibit F was a copy of the board of review's grid analysis reflecting four suggested comparables, which were submitted as evidence in the 2007 tax year appeal before the PTAB. Exhibit G was a larger aerial map of the subject's township area. At hearing, the appellant testified that he highlighted the subject's location in yellow, while highlighting in red the board of review's suggested comparables' location. He stated that at a glance the board of review's properties are drastically farther away from the subject than the appellant's suggested comparables. Therefore, the appellant opined that the board of review had failed to adhere to its guidelines for filing a lack of uniformity appeal. Said guidelines wherein the board of review explicitly refers to similar properties on the subject's block, also a block or two away, but must be within the subject's neighborhood is enumerated within Exhibit E, which is a copy of guidelines from the board of review's website. The Board noted that the properties identified in Exhibits F and G were also submitted into evidence by the board of review in the present tax appeal.

At hearing, the appellant also testified that he had inquired at the county assessor's office as to the disparity in land assessment between the subject and 19 neighboring land parcels. He stated that he spoke via telephone with an employee of the assessor's office, Ms. Reese, on June 28, 2008. He stated that her response to his inquiry was that land assessments were determined by land size cutoffs. He asserted that she detailed the following cutoffs: land parcels under 10,662 square feet are accorded an assessment of \$2.40 per square foot; land parcels from 10,663 to 25,591 square feet are accorded an assessment of \$1.20 per square foot; and land parcels over 25,591 square feet are accorded an assessment of \$0.68 per square foot.

In further support of his argument, the appellant referred to several appraising or assessing treatises. First, he referred to The Property Assessment of Valuation, 2nd Edition, International Association of Assessing Officers, 1996, page 55, wherein he quoted a section regarding residential valuation as stating "that the most important physical factor affecting value is location". In addition, he noted that he had failed to obtain subpoenas for witnesses from the Board, that he nevertheless submitted a freedom of information request via the attorney general's office to the assessor's office. The assessor's response documentation is included within the appellant's rebuttal evidence and reflects a response from the assessor's office that land assessments are determined via a mass appraisal method. Therefore, the appellant stated since he was unaware of what mass appraisal entailed, he referred to the aforementioned treatise, Id @ page 84, which stated that a mass appraisal is a means of determining assessments with the primary application being the sales comparison approach. He further read into the record:

that the sales comparison approach contains two principle applications of this approach are a comparative unit method or by the base lot method. The comparative unit method requires the assessor to stratify a jurisdiction first by market or economic area and then by zoning or use type. Once this has been completed, the assessor must determine the average applicable unit value for each stratum of land.

Based upon these references, the appellant asserted that if the assessor's office has utilized the mass appraisal method, he has submitted 19 properties within the subject's stratum with land assessments lower than the subject's. Therefore, he argued that the assessor's office has applied a non-verbalized, second stratum to the subject property, which inappropriately created a de facto classification for the subject. As to zoning and/or construction type, the appellant asserted that all of his suggested comparables contain the same zoning, while the construction and floor area restrictions vary drastically between suburbs. In support of this assertion, the appellant stated that he submitted a copy of the zoning ordinances for Glenview and Northfield in his rebuttal evidence. He also stated that the subject and his suggested comparables are located in Glenview, while two of the four board of review's properties are located in Northfield. Moreover, he argued that these suburbs vary in land requirements for construction, while so too does the arbitrary cutoffs of the assessor's office.

Furthermore, the appellant referred to The Appraisal of Real Estate, 12th Edition, Appraisal Institute, 2001, page 338, which stated that generally among similar sales, size is often a less important element of comparison than date and location. Therefore, he opined that location is more important in comparability to the subject. Thereby, he asserted that his properties are more comparable to the subject than those properties submitted by the board of review.

Under cross-examination, he testified that he had attempted to verify the information given to him from Ms. Reese, but his telephone calls to the assessor's office were not returned. Moreover, he stated that he was unaware if Ms. Reese had ever performed land valuations. In addition, he stated that he had not verified that assessments of the properties located directly west of the subject property in preparation of this property tax appeal. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment of \$87,851 was disclosed. The board of review submitted descriptive and assessment data relating to four suggested comparables. The analysis indicated that property #1 was located one-quarter mile's distance, while property #4 was located in a subarea. No further locational information was provided.

These properties are improved with a one-story, frame and masonry, single-family dwelling. They ranged: in age from 35 to 47 years; in size from 2,299 to 2,648 square feet of living area; and in improvement assessments from \$26.09 to \$32.76 per square foot of living area. The properties range in land size from 16,170 to 18,034 square feet and in land assessments from \$19,404 to \$21,640 or from \$1.19 to \$1.20 per square foot of land area. The board also submitted property characteristic printouts wherein these properties were accorded an improved lot unit price of \$7.50, as is the subject. The board's representative testified that this improved lot unit price is based upon square footage of land. He also stated this is the result of dividing the land square footage by the land assessment. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board of review's representative testified that property #2 was located 1.8 miles from the subject, while property #3 was located 1 mile from the subject. He also stated that property #4 identified as being in a subarea, was approximately one mile's distance from the subject.

Moreover, he testified that he had no personal knowledge regarding the following areas: mass regression; the sub classifications of residential properties; how the assessor determines land assessments; why there is a variance in land assessments per square foot; what procedures or methods are employed by the assessor's office in determining land values; what factors, if any, are used in determining land assessments besides merely land size; the foundation for zoning variances between suburbs; how the assessor's office obtains data; whether location is a factor in determining land valuation; any theory addressing that when land size increases that valuation per square foot decreases; whether land scarcity within a suburb increases the land value of properties; as well as how neighborhood codes are determined and whether land values vary per neighborhood codes.

Further, when examined specifically regarding the land size and assessment cutoffs allegedly articulated by Ms. Reese, the board's representative testified that he has never heard of such a theory.

However, he did testify that sub classifications of residential property are determined by the improvement thereon and that the land is not taken into account in that determination. In addition, he stated that the role of the board of review is to review assessments for uniformity or market value and not to perform assessments. He indicated that there are probably some people at the board of review that know how assessments are performed. Nevertheless, he stated that location and/or proximity to the subject has a significant effect in determining reliability and comparability before the board of review.

Lastly, as to the subject, the board's representative testified that some of the appellant's suggested comparables tend to be twice as large as the subject property in land size.

In rebuttal, the appellant submitted duplicated copies of prior documentation in his pleadings as well as copies of his subpoena requests. Rebuttal Exhibits A, B, and C include copies of three aerial maps. All three maps were submitted within appellant's initial pleadings. Rebuttal Exhibit D was a multi-page grid analysis providing additional descriptive data on the appellant's 38 suggested comparables as well as the board of review's four suggested comparables. Rebuttal Exhibit E included copies of assessor database printouts for the appellant's previously submitted 42 suggested comparables. The appellant also included copies of documents submitted to the Attorney General's office entitled Subpoena Request Exhibit E. Rebuttal Exhibit F was a copy of the Zoning Ordinance for the Village of Northfield, while Rebuttal Exhibit G was a copy of the Municipal Code for the Village of Glenview.

In closing, the appellant testified regarding the neighborhoods and major thoroughfares appearing on the aerial map identified as Rebuttal Exhibit A. He also argued that his suggested comparables vary in land size, but are all accorded similar land assessments per square foot, while asserting that the subject's land size is within this range and should be accorded the same treatment.

After considering the testimony and arguments as well as reviewing the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant contends unequal treatment in the subject's land assessment as the basis of the appeal. 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). After an analysis of the data, the Board finds that the appellant has met this burden.

The Board finds that the comparables submitted by the appellant are most similar to the subject in location and usage. Each of the appellant's 42 comparables were improved lots with single-family dwellings, thereon. Moreover, each of these comparables were located within close proximity to the subject property. In analysis, the Board accorded most weight to these comparables. These comparables ranged in land size from 8,128 to 61,721 square feet and in land assessments from \$0.40 to \$0.68 per square foot of land area. The subject's land size of 18,788 was accorded a land assessment at \$1.20 per square foot, which is above the range established by these comparables.

The Board accorded diminished weight to the remaining properties due to a disparity in location. The board of review's properties were located from one-quarter mile's distance to 1.8 mile's distance from the subject property. Moreover, the Board finds that the board of review proffered neither testimony nor documentation substantiating any alleged variance in land size with any corresponding variance in land values or assessments per square foot.

As a result of this analysis, the Board finds that the appellant has demonstrated that the subject's land was inequitably assessed by clear and convincing evidence and that a 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 Morris

Member

J. R.

Acting 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: December 23, 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.