



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

APPELLANT: John Kieken
DOCKET NO.: 09-00988.001-R-1
PARCEL NO.: 14-12-32-200-006-0000

The parties of record before the Property Tax Appeal Board are John Kieken, the appellant, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$43,900
IMPR.: \$45,500
TOTAL: \$89,400

Subject only to the State multiplier as applicable.

ANALYSIS

The subject 2.92-acre parcel is improved with a two-story frame dwelling that contains 2,048 square feet of living area. The dwelling was built in 1902 and is 107 years old. Features of the home include a full unfinished basement and a detached garage containing 1,386 square feet of building area.¹ Also on the property is a 50 year old pole barn with a gravel floor containing 1,600 square feet of building area and a 100 year old corn crib. The subject is located in Manhattan, Manhattan Township, Will County.

The appellant's petition indicated unequal treatment in the assessment process concerning both the land and improvement assessments as the basis of the appeal. Besides inequity evidence, the appellant outlined six other contentions in the appeal submission:²

¹ The appellant reports the garage was built in 2002.

² Each of these contentions in various ways addresses the market value of the subject property, not assessment equity. Each appeal shall be limited to the grounds listed in the petition filed with the Board. (Section 16-180 of the Property Tax Code). (86 Ill.Admin.Code §1910.50(a)). A market value argument would have to be supported with market-based evidence of comparable sale

(1) The appellant cites to the 'condition' of the subject property of original wood clad siding with peeling paint requiring constant maintenance; lack of insulation; 30 original windows; a second floor with original plaster in poor condition; lack of electrical outlets/electricity to the second floor pending upgrades; and the subject's rural location. Twelve color photographs of the interior and exterior of the dwelling were included in the materials to support these assertions, other than the location issue.

(2) The appellant presented an argument based upon his own "updating" of two of three sales comparables which were analyzed in a 1993 appraisal of the subject property (copy of the appraisal was attached). The 'updating' was done with 2009 assessment data. Based on the appellant's analysis/updating, the appellant contends the average market values of these two properties is \$210,611. There was no explanation of the exclusion of the third comparable set out in the appraisal.

(3) The appellant presented a listing of fifteen recent sales in Manhattan Township of 105 total sales and compared those sale prices to their 2009 assessments in an effort to conduct a sales ratio study. Based on this limited data, the appellant reported "the average amount of over-assessment for this sample is 29%." From this data, the appellant contended that the subject is entitled to a 29% assessment reduction for a revised estimated market value of \$207,907.

(4) The appellant contends that home sales have been depressed for the prior 18 months, including locally, citing to a newspaper article discussing the lack of new subdivision development (i.e., new construction). From this, the appellant contends that 2009 assessments, which are reportedly higher than 2007's peak levels, are excessive.

(5) The appellant submitted data gathered from Zillow, Inc., a website reportedly with public record data on real estate transactions. The appellant presented two graphs developed from the "Zillow Home Value Index" purportedly reflecting the median value of all homes in a given geographic area. One graph based on the subject's zip code depicts average home values in 2009 have declined to the 2004 level; the second graph depicts both Illinois and Will County 2009 median home values have declined to the 2004 level. Based on this analysis, the appellant contends that the subject's 2004 assessment was \$66,800 which would reflect an estimated market value of \$200,400.

(6) For this contention, the appellant compares and contrasts the subject property with a property identified as the Oldani

properties, a recent sale of the subject, an appraisal or recent construction costs. (86 Ill.Admin.Code §1910.65(c)).

property located 5 miles from the subject.³ The subject parcel of 2.92-acres is more than five times larger than this comparable parcel of .56 of an acre. The Oldani property is somewhat similar in dwelling size, but was built in 2003, has brick exterior construction, a fireplace and central air conditioning. The Oldani Property improvement assessment was not disclosed. The appellant instead examined the total assessment, \$89,400 for the subject and \$92,000 for the Oldani Property, argued the Oldani Property has a favorable location and concluded "overall, the net difference between these properties clearly favors the Oldani Property." In his summary, the appellant asserted this data shows that the subject property is "over assessed" (i.e., not reflective of its market value).

In support of the inequity argument, the appellant completed the Section V grid analysis with descriptions and assessments for three comparable properties that are located from 1 mile to more than 1 mile from the subject.

As to the land inequity argument, the comparable parcels range in size from 43,560 to 217,800 square feet of land area and have land assessments ranging from \$30,000 to \$47,350 or from \$0.22 to \$0.69 per square foot of land area. The subject has a land assessment of \$43,900 or \$0.35 per square foot of land area. Based on this evidence, the appellant requested a land assessment reduction to \$34,044 or \$0.27 per square foot of land area.

As to the improvement inequity argument, the comparables consist of two-story frame dwellings that were either 105 or 120 years old. The comparable dwellings range in size from 2,024 to 3,336 square feet of living area. Two of the comparables have partial unfinished basements. Each comparable has a garage ranging in size from 720 to 1,092 square feet of building area. The comparables have improvement assessments ranging from \$30,500 to \$36,800 or from \$9.14 to \$18.18 per square foot of living area. The subject's improvement assessment is \$45,500 or \$22.22 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$35,286 or \$17.23 per square foot of living area.

Based on each of the foregoing contentions, the appellant concludes that the subject's land and residence have an estimated market value of \$207,989 or a total assessment of \$69,330.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$89,400 was disclosed. The board of review presented a two-page letter from the Manhattan Township Assessor's Office addressing the evidence along with attachments.

³ The Manhattan Township Assessor is Joe Oldani; the appellant gave the address and parcel number of this property, but did not provide a copy of its property record card.

As to the subject, the assessor reports that the owner "has been restoring the house for several years." The subject dwelling has a CDU (condition/desirability/utility) rating of A- or below average as shown on its property record card.

As noted by the appellant in his rebuttal submission, the assessor's submission contends that there are six comparables presented by the appellant; the assessor's submission presumably reflects the data submitted before the Will County Board of Review, not necessarily the data submitted before the Property Tax Appeal Board. Only the data relevant to the current submission by the appellant will be addressed herein.

As to the appellant's three equity comparables, the assessor contends that comparable #1 is in "very poor" condition and the new owner plans to demolish and build a new dwelling. According to the underlying property record card, this property has a CDU of G for good. Similarly, appellant's comparable #2 is said to be in "very poor" condition which is confirmed by the underlying property record card. Comparable #3 is in "fair condition" with a CDU of A for average according to the attached property record card.

Except for the comparison to the Oldani Property, the assessor did not address the additional contentions made by the appellant as outlined in this decision. The assessor reports that the Oldani Property is his residence. This parcel is "in the middle of Jackson Creek flood zone A" and in a 1996 flood the original 1970's dwelling was severely damaged. The home and garage were elevated and rehabbed in 2003, but still suffers regular flooding (six photographs depicting flooding were submitted). The dwelling is on a crawl-space foundation to allow flood water into it. The property record card for this dwelling depicts a land assessment of 23,000 or \$0.94 per square foot of land area which is more than twice that of the subject's land assessment on a per-square-foot basis. This property has an improvement assessment of \$69,000 or \$32.86 per square foot of living area which is nearly one-third higher than the subject's improvement assessment of \$22.22 per square foot of living area.

In support of the subject's assessment, the assessor presented a multi-page grid analysis of comparable properties; although nine comparables are presented, comparables #1 and #8 are the same property and will be analyzed only once as comparable #1. A township map depicts the location of both parties' comparables. The subject is closest in proximity to board of review comparables #1, #2, #7 and #9 and appellant's comparables #1 and #3, with all remaining comparables to the north, northeast and northwest within the township. Comparables #1 through #6 reportedly support market value, but all eight properties support equity according to the assessor's letter. In light of the appellant's equity submission, the assessor's assessment equity evidence will be analyzed herein.

The eight properties have lot sizes ranging from 1 to 3.75-acres of land area. They have land assessments ranging from \$30,000 to \$47,500 or from \$0.29 to \$0.69 per square foot of land area.

The comparables are improved with two-story frame dwellings that range in age from 94 to 129 years old. The dwellings range in size from 1,461 to 2,243 square feet of living area. Four comparables have full unfinished basements and four have partial crawl-space foundations. One of the dwellings has central air conditioning and a fireplace. Seven of the comparables have garages, with one property having both an attached and a detached garage; the garages range in size from 390 to total of 1,142 square feet of building area. Line 16 of the assessor's grid reports the recorded CDU for the comparables: three are A; three are A-; and two are G (good). These properties have improvement assessments ranging from \$35,450 to \$93,300 or from \$20.75 to \$41.60 per square foot of living area.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In a 14-page point-by-point written rebuttal as noted previously, the appellant asserted that the assessor's data did not directly address only the evidence presented in this appeal before the Property Tax Appeal Board. Only the pertinent portions of this rebuttal relevant to the data before the Property Tax Appeal Board will be outlined herein.

The appellant also contended that an assessment reduction was granted for 2010 by the Will County Board of Review (Attachment #2) reducing the subject's total assessment to \$78,650 based on similar arguments made in this appeal. The appellant further asserted that in the township assessments remained unchanged from 2009 to 2010 and therefore, the instant assessment should be likewise reduced for 2009.

The appellant contends condition, proximity to residential expansion and village amenities should be closely examined for comparability to the subject. The appellant reiterates that each of his comparables is appropriate and displays a lower per-square-foot improvement assessment than the subject. The appellant contends his comparable #3 sold in 2010 for \$185,000 which is "an 8% reduction from the 2009 assessment."

As to the Oldani Property, the appellant contends his own view of the dwelling in 2010 suggests that the CDU of this home is greater than its reported "good" rating.

Without factual support, the appellant asserts that board of review comparable #3 which is a Class F property is "invalid" because the subject is a Class R property. With the exception of comparable #8, as to the remaining comparables presented the appellant asserts the comparables are in better condition than the subject and/or enjoy a better location than the subject. Board of review comparable #9 is said to be similar in size and

condition to the subject, but it has a better location according to the appellant.

In conclusion, the appellant requested a total assessment reduction to reflect "the actual 2009 Fair Market Value of \$207,989" or a total assessment of \$69,330.

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 Board further finds a reduction in the subject's assessment is not warranted.

The appellant's contention regarding the condition of the subject dwelling is not a basis upon which an assessment reduction is warranted when the basis of appeal is assessment equity. Importantly, however, appellant provided no empirical data to indicate the property was over-valued based on its condition (i.e., no market-based data of comparables in similar condition) and thus the Property Tax Appeal Board has given this argument little merit.

Addressing the appellant's sales ratio analysis, the Board finds that the appellant failed to utilize the proper method in calculating the assessment to value ratio for the comparables. The Board finds the proper method to calculate assessment to value ratios for ad valorem taxation purposes is by using a property's prior year's assessment divided by its arm's-length sale price. Moreover, the Board finds the appellant's analysis and interpretation of the sales ratio data is in error and is not supported by the limited results. The Property Tax Appeal Board finds that it can give little credence to the appellant's argument based on his attempted sales ratio study. The United States Supreme Court has considered the requirements of equal treatment in the assessment process with respect to the Equal Protection Clause of the Federal Constitution. In Allegheny Pittsburgh Coal V. Webster County, 109 S.Ct. 633 (1989), the Court held that the "Clause tolerates occasional errors of state law or mistakes in judgment when valuing property for tax purposes [citation omitted]", and "does not require immediate general adjustment on the basis of the latest market developments. In each case, the constitutional requirement is the reasonable attainment of a rough equality in tax treatment of similarly situated property owners." The courts look to the county as a whole in order to determine whether the property at issue is being assessed in accordance with the constitutional guaranty of equality and uniformity of taxation.

In this same context, the Board finds the appellant's study data were not performed on a countywide basis, the properties selected were not random, and the appellant did not properly edit the data. Peacock v. Property Tax Appeal Board, 339 Ill.App.3d 1060 (4th Dist. 2003). The Board finds the courts have held that in determining whether to use a township or county sales ratio, considerations of practicality dictate the use of the county ratio. People ex rel. Kohorst v. Gulf, Mobile & Ohio R.R. Co.,

22 Ill.2d 104, 174 (1961). The courts look to the county as a whole in order to determine whether the property at issue is being assessed in accordance with the constitutional guaranty of equity and uniformity of taxation. Additionally, the courts have held that "even if the studies show a disparity in the levels of assessment of residential property within the same township, we cannot find that the evidence shows that a township level of assessment, rather than a countywide level, is the proper one." In re App. of County Treasurer (Twin Manors), 175 Ill.App.3d 562, (1st Dist. 1988). Thus, a review of case law indicates that the courts look at the "assessment level for the county as a whole" rather than selective properties in a given area, as the appellant did in this instant appeal.

As to data presented by the appellant from the Zillow.com website, the Board gives this evidence no weight. First, there was no indication of the definition of market value that was used to gather the data. Second, there was no information with respect to the credentials or qualifications of the person or persons gathering the purported sales data. Third, there was no data such as a description of the comparable sales and the sale dates that were used to establish the "2009 Home Value Index." Instead, there was generalized "median" sales analysis which is not useful in determining the assessment of the subject property. Generalized sales data without specific information related to attributes of individual properties is not relevant in determining whether the assessment of the subject property is or is not correct. Moreover, since the basis of this appeal was lack of assessment equity, this submission is not supportive of the inequity contention. Thus, the Property Tax Appeal Board will not further consider this data presented from Zillow.

As to the 2010 assessment reduction reportedly issued by the township assessor, proceedings before the Property Tax Appeal Board are de novo which means under this standard of review, the assessments set by a board of review are entitled to no deference on appeal to the Property Tax Appeal Board. Appellant's suggestion that the Board should adopt the subsequent year decision of the township assessor despite the evidence in this record is at odds with the legislature's provision that the Board is to set the correct assessment in the context of a *de novo* review. LaSalle Partners, Inc. v. Illinois Property Tax Appeal Board, 269 Ill.App.3d 621, 627 (2nd Dist. 1995).

The appellant contends unequal treatment in the subject's land and improvement assessments 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). 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 appellant has not met this burden.

The parties presented a total of eleven comparable properties to support their respective positions before the Property Tax Appeal Board. Each comparable was located in Manhattan Township.

As to the land assessment argument, the eleven parcels have land assessments ranging from \$0.22 to 0.69 per square foot of land area. The subject's land assessment of \$0.35 per square foot of land area is within the range of the comparables and is well-supported by board of review comparables #7 and #9 which are most similar in size to the subject parcel and have land assessments of approximately \$0.34 per square foot of land area.

As to the improvement assessment argument, the Board has given less weight to appellant's comparables #1 and #2 and to board of review comparables #4 and #5 due differences from the subject in size, age and/or features. The Board finds the remaining seven comparables submitted by both parties have varying degrees of similarity to the subject. The comparables were generally similar to the subject in location, size, style, exterior construction and/or age. The comparables had improvement assessments ranging from \$18.18 to \$30.49 per square foot of living area. The subject's improvement assessment of \$22.22 per square foot of living area is within the range established by the most similar comparables on this record. 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.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. 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 appellant 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. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds 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 Morris

Member

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: September 21, 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.