FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Johnny Fernandez
DOCKET NO.: 09-02811.001-R-1
PARCEL NO.: 16-08-212-018

The parties of record before the Property Tax Appeal Board are Johnny Fernandez, the appellant, by attorney Edward Larkin of Larkin & Larkin, in Park Ridge, and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$74,682
IMPR.:	$140,161
TOTAL:	$214,843

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story frame single-family dwelling that was built in 1986. The home contains 2,544 square feet of living area with an unfinished basement, central air conditioning, a fireplace and a garage of 480 square feet of building area. The property is located in Lake Forest, West Deerfield Township, Lake County.

The appellant appeared before the Property Tax Appeal Board through legal counsel contending unequal treatment in the assessment process regarding the improvement as the basis of the appeal. No dispute was raised concerning the land assessment.

In support of the improvement inequity argument, the appellant presented evidence of assessment data on three similar properties which were located in the same neighborhood code assigned by the assessor as the subject. The comparables were described as a 1.75-story frame dwelling and two, two-story frame or brick dwellings that were built between 1985 and 1987. The comparable dwellings range in size from 2,544 to 2,900 square feet of living area. Features include basements, one of which includes finished

area, central air conditioning, a fireplace and garages ranging in size from 462 to 572 square feet of building area. These comparables have improvement assessments ranging from $136,093 to $152,688 or from $49.27 to $53.50 per square foot of living area. The subject's improvement assessment is $140,161 or $55.09 per square foot of living area.

Each appeal shall be limited to the grounds listed in the petition filed with the Board. (35 ILCS 200/16-180 of the Property Tax Code). 86 Ill.Admin.Code §1910.50(a). The bases for appeal in the instant petition were assessment equity and contention of law.

At hearing, counsel for appellant orally sought to "amend" the appeal petition to a total assessment reduction request of $192,117 based upon the subsequent 2011 assessment reduction of the subject property and counsel's interpretation of the court's holding in the Hoyne case. (See rebuttal argument discussed below).

Based on the foregoing, the appellant in the Residential Appeal petition requested a reduction in the subject's improvement assessment to $120,000 or $47.17 per square foot of living area.[1]

The board of review submitted its "Board of Review - Notes on Appeal" wherein the subject's final assessment of $214,843 was disclosed. In response to the appeal, the board of review submitted a letter, a two-page grid analysis of comparables and a location map depicting proximity to the subject.

In the grid analysis, the board of review presented descriptions and assessment information on six suggested comparable properties located in the subject's neighborhood code assigned by the assessor, one of which was on the same street as the subject. The properties consist of two-story frame dwellings that were built between 1985 and 1988. The homes range in size from 2,442 to 2,740 square feet of living area. Features of the homes include unfinished basements, central air conditioning, a fireplace and garages ranging in size from 400 to 600 square feet of building area. These properties have improvement assessments ranging from $136,143 to $161,630 or from $54.66 to $62.50 per square foot of living area.

Upon questioning, the board of review representative testified that the market conditions in the subject's market area were deteriorating between 2009 and 2011 with 2009 being "much better" than 2011. The witness further testified that the assessing officials were not aware of any physical changes to the subject property between 2009 and 2011.

[1] In the brief submitted with the evidence, based upon the equity analysis counsel requested an improvement assessment reduction to $51.81 per square foot of living area or an improvement assessment of $131,805. Based upon the oral amendment request at hearing, appellant is now requesting an improvement assessment of $117,435 or $46.16 per square foot of living area based on the Hoyne case.

Based on this evidence, the board of review requested confirmation of the subject's 2009 assessment.

In written rebuttal, the appellant's counsel submitted data regarding the 2011 assessment of the subject property of $194,117 which was lower than the instant 2009 total assessment. Counsel cited Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84 (1974) for the proposition that the subject's assessment should be reduced based on this 2011 assessment.

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

In rebuttal and again at hearing as an effort to "amend" the appeal, appellant's counsel raised a legal argument based on the Illinois Supreme Court's holding in Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974). In this regard, the appellant sought to rely on subsequent market conditions in 2011 as a basis upon which to obtain a reduction in the subject's 2009 assessment.

The Board finds that in the Hoyne decision, the Illinois Supreme Court found of significance the fact that the board of review substantially reduced the assessed value of the property under appeal in the secondary subsequent assessment year (1971 to 1973). The court recognized they did not know how this subsequent reduction was achieved, but concluded McHenry County Assessment Officials acknowledged that the assessment on which the plaintiff's taxes for 1971 were based were grossly excessive in that the increase occurred on the same property with the same improvements and the assessment was based on uses not permitted by existing zoning and upon incorrect assumptions regarding water/sewer service. Thus, the Illinois Supreme Court remanded the 1972 assessment case to the Circuit Court of McHenry County with directions to ascertain the assessed valuation of the property based on the computation of the assessed valuation used for the 1973 assessment. In that regard, the court noted that consideration must be given to any changes in the condition of the property which may have affected the assessed valuation. Thus, the Property Tax Appeal Board finds Hoyne does not control the instant appeal. Furthermore, the Property Tax Appeal Board finds that the board of review provided un-refuted testimony describing the deteriorating real estate market condition in West Deerfield Township from 2009 through 2011, which resulted in the subject's reduced assessment for the 2011 assessment year as compared to the instant 2009 assessment.

In the appeal petition, the appellant contends unequal treatment in the subject's improvement 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). 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 submitted a total of nine equity comparables to support their respective positions before the Property Tax Appeal Board. The Board finds the nine comparables submitted by both parties were similar to the subject in location, size, style, exterior construction, features and/or age. The comparables had improvement assessments that ranged from $136,093 to $161,630 or from $49.27 to $62.50 per square foot of living area. The subject's improvement assessment of $140,161 or $55.09 per square foot of living area is within this range. 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 assessment uniformity.

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.

In conclusion, the Board finds that a reduction in the subject's 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.

Chairman

Member

Member

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: November 30, 2012

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.