



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

APPELLANT: Bryan L. Aschauer
DOCKET NO.: 09-03315.001-R-1
PARCEL NO.: 04-16-377-010

The parties of record before the Property Tax Appeal Board are Bryan L. Aschauer, the appellant; and the Kendall 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 Kendall County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$30,458
IMPR: \$96,713
TOTAL: \$127,171

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story single family dwelling of frame and brick exterior construction that contains 2,470 square feet of living area and was built in 2002. Features of the home include central air conditioning, one fireplace, a full unfinished basement and a 705 square foot attached garage. The subject has a 45,235 square foot site and is located in Millbrook, Fox Township, Kendall County.

Bryan Aschauer appeared before the Property Tax Appeal Board contending assessment inequity. In support of this argument, the appellant submitted a letter addressing the appeal, photographs, a location map, a land analysis and an improvement analysis. The improvement analysis contains four suggested comparables that are improved with one-story single family dwellings of brick or brick and frame exterior construction built from 2004 to 2006. The comparables are located from 500 feet to 1 mile away from the subject property. Features include central air conditioning, one or two fireplaces and three or four-car attached garages. The comparables have full basements, with one having a partial finish and two comparables are walk-out basements. The comparables are

situated on lots that range in size from 4,600 to 57,255 square feet of land area. The dwellings range in size from 2,220 to 2,595 square feet of living area and have improvement assessments ranging from \$85,112 to \$95,799 or from \$35.85 to \$39.19 per square foot of living area.¹

The appellant submitted four land comparables that are reported to be located in the same subdivision as the subject property. The land comparables contain from 45,121 to 50,073 per square foot of land area and have land assessments of \$23,132 or from \$.46 to \$.51 per square foot of land area.

Aschauer testified that comparable #1 is very close in square footage. He also argued that the residence is all brick, has multiple fireplaces, and a screened in porch, but only cents difference in assessment per square foot. Aschauer stated comparable #1 was purchased for a great deal more than the appellants purchase price. Aschauer testified that the subject property should be assessed considerably lower than comparable #1.

Under cross-examination, Aschauer was questioned on why he did not include the land and building assessment on his grid analysis for comparable #4, when he requested attention should be given to this comparable. Aschauer responded that comparable #4 was very much like the subject property, except it was 250 square feet smaller. He also responded that the lots are comparable but the land and building assessments were lowered for 2009. Nicolette responded with the breakdown for the land and building assessments for the appellant's comparable #4. Berault stated that the appellant's comparable #4 was reduced based on a 2007 Property Tax Appeal Board decision. Aschauer stated that he has a semi wooded lot. Aschauer responded that the four land comparables submitted were not wooded, like the subject.

Based on the evidence submitted, the appellant requested the subject's land and improvement assessments be reduced.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$127,171 was disclosed. The board of review submitted a letter addressing the appeal. In support of the subject's assessment, the board of review submitted a location map, photographs and a grid analysis containing four suggested comparables.

Appearing for the board of review was Assistant State's Attorney, David Berault and the Clerk of the Board of Review, Andy Nicolette. Berault called as his witness Nicolette. Nicolette testified that the four comparables are located from across the street to one-half mile from the subject property. The

¹ The breakdown of land and building assessment for the appellant's comparable #4 was not included in the assessment grid analysis. This assessment breakdown was obtained by testimony from Nicolette during cross-examination of the appellant.

comparables were improved with one-story single family dwellings that ranged in size from 2,466 to 2,546 square feet of living area. The comparables were of brick and frame construction that were constructed from 2002 to 2005. Features include central air conditioning, full unfinished basements and attached garages ranging from 755 to 879 square feet of building area. One comparable has a fireplace. The comparables have improvement assessments ranging from \$95,109 to \$99,798 or from \$38.57 and \$39.20 per square foot of living area. The subject has an improvement assessment of \$96,713 or \$39.16 per square foot of living area.

The comparables' lot sizes range from 45,255 to 48,780 square feet of land area and have land assessments ranging from \$30,193 to \$31,252 or from \$.63 to \$.68 per square foot of land area. The subject property has a land assessment of \$30,458 or \$.67 per square foot of land area.

Nicolette testified that the four land comparables the appellant submitted had favorable Property Tax Appeal Board decisions for 2007 and in error, since this was not a single family owner occupied property, was carried forward by the county. He also stated, the appellant's improvement comparable #4 had received a favorable Property Tax Appeal Board decision for 2007 and was properly carried forward, because this was a single family owner occupied property. Nicolette testified that the township assessor does not assess driveways or finished basements.

Under rebuttal, Nicolette responded that there is no distinction between a mechanical fireplace and a masonry fireplace. Nicolette reiterated that the township assessor does not assess finished basements, but would assess a bathroom in the basement.

Based on the evidence, the board of review requested confirmation of the subject's land and improvement assessment.

After hearing the testimony and considering the 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 does not support a reduction in the subject's assessment.

The appellant argued in part the subject property was not uniformly assessed. 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. The Board finds the appellant has not met this burden of proof.

With respect to the subject's improvement assessment, the record contains eight suggested assessment comparables submitted by both parties for the Board's consideration. The Board gave less

weight to the appellant's comparable #3 due to its location outside of the subject's subdivision. The Board finds the remaining comparables are similar to the subject in location, design, age and most features but one comparables has a partial finished basement, unlike the subject's full unfinished basement. The comparables have improvement assessments ranging from \$85,112 to \$99,798 or from \$38.34 to \$39.20 per square foot of living area. The subject property has an improvement assessment of \$96,713 or \$39.13 per square foot of living area, which falls within the range of the best comparables in the record. Therefore, the Board finds the subject's improvement assessment is equitable and no reduction in the subject's assessment is warranted.

The appellant also argued that the subject's land was not uniformly assessed. The record contains eight suggested assessment comparables for the Board's consideration. The Board finds the comparables submitted by both parties are similar to the subject in location and size. These comparables have lots that range in size from 45,121 to 50,073 square feet of land area with land assessments ranging from \$23,132 to \$31,252 or from \$.46 to \$.68 per square foot of land area. The subject property has a land assessment of \$30,458 or \$.67 per square foot of land area, which falls within the range established by the most similar comparables. After considering adjustments to the comparables for any differences when compared to the subject, the Board finds subject's land assessment as established by the board of review is correct and a reduction 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 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 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. 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 a reduction in the subject's assessment based on assessment inequity is not justified.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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 19, 2013

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.