



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

APPELLANT: Patricia McHugh
DOCKET NO.: 09-03848.001-R-1
PARCEL NO.: 14-01-400-004

The parties of record before the Property Tax Appeal Board are Patricia McHugh, the appellant; 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: \$95,596
IMPR: \$504,344
TOTAL: \$599,940

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a three-story masonry dwelling containing 9,434 square feet of living area. The home was built in 2002 and features a basement that is partially finished, central air conditioning, a fireplace and two, 2-car garages. The subject is situated on approximately 5.9 acres of land with a swimming pool, golf hole green and a beach on a lake located in Ela Township, Lake County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process regarding the subject's improvement assessment and overvaluation as the bases of the appeal. The appellant did not contest the subject's land assessment. In support of these claims, the appellant submitted a two page brief, an equity grid, a three page letter from the appraiser, a 2006 appraisal and a 2009 appraisal for the subject property.

At the commencement of the hearing, the appellant made a motion to quash the board of review's rebuttal evidence due to the board of review's failure to adhere to the board of review's rules

3(c)(3) and 3(c)(2), the Property Tax Appeal Board's rule 1910.65(c)(1) (86 Ill.Admin.Code §1910.65(c)), Section 200/9-5 of the Property Tax Code (35 ILCS 200/9-5) and failure to submit a USPAP "Complaint Review".

The board of review objected to the appellant's motion to quash as it was not included as part of the appellant's complaint.

The Property Tax Appeal Board hereby denies the appellant's motion to quash. First, the Property Tax Appeal Board has no jurisdiction in the manner in which the board of review promulgates rules, conducts evidentiary hearings or reaches its final decisions. The Board further finds it will consider both parties timely submitted evidence. Section 16-180 of the Property Tax Code provides in pertinent part:

All appeals shall be considered de novo and the Property Tax Appeal Board shall not be limited to the evidence presented to the board of review of the county. A party participating in the hearing before the Property Tax Appeal Board is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the board of review of the county. (35 ILCS 200/16-180)

Additionally, 1910.50(a) of the rules of the Property Tax Appeal Board provides:

All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review or to any submissions not timely filed or not specifically made a part of the record. *The Board shall not be limited to the evidence presented to the board of review of the county. A party participating in the hearing before the Property Tax Appeal Board is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the board of review of the county. Each appeal shall be limited to the grounds listed in the petition filed with the Board.* (86 Ill.Admin.Code §1910.50(a)).

The appellant's two page brief argues that errors were made by the Lake County Board of Review during the 2009 hearing. The brief further levies criticisms of the Lake County Board of Review dating back to 2007 regarding the measuring of the subject dwelling. The brief criticizes the board of review's comparable properties and advises that time adjustments would be necessary if these comparables were to be used in an analysis.

In support of the improvement inequity argument, the appellant submitted one suggested comparable located 0.6 of a mile from the subject property. The comparable consists of a three-story

dwelling of masonry construction containing 7,322 square feet of living area. The dwelling is 3 years old and features an unfinished basement, central air conditioning, five fireplaces and a 823 square foot garage. The comparable has an improvement assessment of \$357,114 or \$48.77 per square foot of living area. The subject has an improvement assessment of \$504,344 or \$53.46 per square foot of living area.

The three page letter from the appraiser documents his analysis of the subject's dwelling size and lists further criticisms of the Ela Township Assessor's office.

In support of the overvaluation argument, the appellant submitted a 2006 appraisal of the subject property prepared by Alan Zielinski, a state licensed appraiser. The appraisal report conveys an estimated market value for the subject property of \$1,800,000 including land as of January 1, 2006, using two of the three traditional approaches to value.

Under the cost approach, the appraiser concluded a reproduction cost new for the subject property of \$2,077,579. The source of the cost data was from Marshall & Swift, LP. Under the sales comparison approach, the appraiser concluded a value of \$1,800,000.

Under the sales comparison approach to value, the appraiser utilized three comparable sales and one listing located from 0.4 to 1.28 miles from the subject property. The comparable sales consist of two-story dwellings of brick and stone or stone and frame construction that contain from 2,960 to 7,411 square feet of living area. The dwellings range in age from new to 23 years old. One comparable has a full unfinished basement and two comparables have full finished basements, one of which has a walk-out. Other features include central air conditioning, two or four fireplaces and a three or four-car attached garage. The comparables sold from June 2004 to May 2006 for prices ranging from \$1,112,500 to \$1,644,000 or from \$221.83 to \$375.84 per square foot for living area including land.

The appraiser adjusted the comparables for differences when compared to the subject in date of sale, view, quality of construction, age, room count, gross living area, basement & finish, heating/cooling, garage/carport, porch/patio/deck, fireplace, fence/pool, etc. and basement bath. The appraiser used the adjusted unit prices of the comparables and opined a subject property's value range of between \$1,579,500 and \$1,865,000, land included.

The one listing consists of a two-story frame dwelling containing 6,601 square feet of living area. The dwelling is 148 years old and features a full unfinished basement, central air conditioning, two fireplaces and a four-car attached garage. The appraiser adjusted the listing for differences when compared to the subject in date of sale (active), site, view, quality of construction, age, room count, gross living area, fireplace,

fence/pool, etc. and basement bath. The appraiser used the adjusted unit price of the listing to opine a subject value of \$1,799,500.

Under reconciliation, the appraiser placed most weight on the sales comparison approach to value with support from the cost approach to value in concluding a final value for the subject property of \$1,800,000 as of January 1, 2006.

The appellant also submitted a 2009 appraisal of the subject property prepared by the same appraiser. The appraisal report conveys an estimated market value for the subject property of \$1,545,000 including land as of January 1, 2009, using the sales comparison approach to value.

Under the sales comparison approach to value, the appraiser detailed one comparable sale, which was also used for the equity argument, located .06 of a mile from the subject property. The comparable sale consists of a three-story dwelling of masonry construction containing 7,322 square feet of living area. The dwelling is 3 years old and features an unfinished basement, central air conditioning, five fireplaces and a 823 square foot garage. The comparable sold in December 2008 for \$1,595,000 or \$217.84 per square foot for living area including land.

The appraiser adjusted the comparable for differences when compared to the subject in site, condition, above grade, room count, gross living area, basement & finish, basement bath, in ground pool and fireplace. The appraiser used the adjusted unit price of the comparable to opine a subject value of \$1,546,000.

The appellant's 2009 appraisal also included a spreadsheet of Ela Township sales purportedly showing a 14% decline in market value from 2006 to 2007 and a further 5% decline of market value from 2007 to 2008. The information was obtained from Multiple Listing Service (MLS) data with no descriptions of the properties. The spreadsheet displayed three groupings of data for Ela Township. School districts including HS Dist.125, JH Dist.76 and GS Dist.76 were the first grouping. The second was comprised of all sales in Ela Township and the third was comprised of Ela Township sales greater than \$700,000.

Under reconciliation, the appraiser noted "See attached addenda" which was not submitted with the report. The appraiser concluded a final value for the subject property of \$1,545,000 as of January 1, 2009.

The appellant's appraiser testified that he is the appraiser of record for this appeal and has personally appraised the subject property almost annually since 2006. The appraiser testified that the one comparable property used in his 2009 appraisal was selected as Ela Township's #1 comparable at the board of review hearing. The board of review objected due to the board of review's new evidence supplied to the Property Tax Appeal Board. The Board hereby sustains the objection by the board of review

due to the previously noted Property Tax Appeal Board rule under Section 1910.50(a) (86 Ill.Admin.Code §1910.50(a)).

The appraiser again testified that Ela Township used "two ridiculous properties", one of which was a dated sale, to complete their grid. The board of review again objected to the examination of evidence used by Ela Township at the board of review hearing, since new evidence was supplied to the Property Tax Appeal Board. The Board hereby sustains the objection by the board of review due to the previously noted Property Tax Appeal Board rule under Section 1910.50(a) (86 Ill.Admin.Code §1910.50(a)).

Based on this evidence, the appellant requested the subject's improvement assessment be reduced to \$515,000.

During cross-examination, the appraiser testified that the one property used for the appellant's inequity argument established a value for the subject of \$1,545,000. The appraiser further testified that he used a macro approach of how the neighborhood was doing to support his analysis of the subject's market value. He enlisted two methods to establish a market value for the subject property.

The first method begins with the 2006 appraisal value of \$1,800,000. The appraiser next applies a compounded percentage of market value decrease obtained from MLS data of .86 times .95 to arrive at a subject value of \$1,470,600. The appraiser testified that the sales data revealed a 14% decline in market value from 2006 to 2007. The data revealed a further 5% decline of market value from 2007 to 2008.

The second method to value was a sales comparison approach to value using the one comparable property from the 2009 appraisal. The sales comparison approach reported in his 2009 appraisal established a subject value of \$1,545,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$599,940 was disclosed. The subject's assessment reflects an estimated market value of \$1,825,746 or \$193.53 per square foot of living area including land using Lake County's 2009 three-year median level of assessments of 32.86%.

In support of the dwelling size of the subject, the board of review called Shawn Oakley, Deputy Assessor of Ela Township, to testify regarding the subject's recorded dwelling size of 9,434 square feet. Oakley testified that he measured the subject on June 20, 2011 and recorded his findings on the subject's Property Record Card (PRC).

In support of the subject's assessment, the board of review submitted three suggested comparable properties. The comparables are located from 1.55 to 3.02 miles from the subject property. The comparables have lots ranging in size from 40,071 to 203,425

square feet of land area. The comparables consist of two-story brick dwellings that range in size from 4,831 to 6,849 square feet of living area. The dwellings were built between 2001 and 2008 and feature full basements, one of which is partially finished. Other features include central air conditioning, two fireplaces and garages ranging in size from 960 to 1,190 square feet of building area. The comparables have improvement assessments ranging from \$291,790 to \$443,172 or from \$56.18 to \$64.71 per square feet of living area.

The comparables sold in December 2008 and May 2009 for prices ranging from \$1,310,000 to \$1,899,913 or from \$270.11 to \$365.79 per square foot for living area including land.

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

In rebuttal, the appellant submitted a six page brief describing the reason the board of review's evidence should be stricken and criticisms of the Lake County Board of Review. The rebuttal evidence also included Exhibit's A thru E, which include the appraisers credentials, discrepancies regarding the subject's size, criticisms of the board of review, the American National Standard For Single-Family Residential Buildings, the appellant's claim for parity and a settlement offer from Ela Township. The appellant also argued that the comparables used by the board of review are located in superior school districts.

After hearing testimony 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 parties dispute the size of the subject dwelling. The appellant reported a dwelling size of 8,314 square feet of living area based upon an appraiser's letter dated April 7, 2010. The appellant's appraiser, Alan Zielinski, claimed the improvement size was determined from a revised sketch, which was not supplied as evidence. The improvement sketch provided by the appellant, as evidence to the Property Tax Appeal Board, was from an original sketch within a 2006 appraisal dated March 21, 2007. The board of review called Shawn Oakley, Deputy Assessor of Ela Township, to testify regarding the subject's recorded dwelling size of 9,434 square feet. Oakley testified that he measured the subject on June 20, 2011 and recorded his findings on the subject's Property Record Card (PRC). The board of review presented a copy of the updated PRC for the subject with a schematic of the dwelling and a reported dwelling size of 9,434 square feet. The schematic offered by the board of review is more detailed than that offered by the appellant and therefore lends more to its credibility.

As a result, the Property Tax Appeal Board finds the best and most credible evidence of the subject's dwelling size was the testimony and evidence presented by the board of review.

Therefore, the Board finds the subject dwelling contains 9,434 square feet of living area.

The appellant contends unequal treatment in the subject's improvement assessment as part of the bases 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 assessment data, the Board finds the appellant has not met this burden.

The parties submitted four equity comparables for the Boards consideration. The Board finds the comparables submitted by both parties were similar to the subject in age, exterior construction and some features. The comparables have improvement assessments ranging from \$291,790 to \$443,172 or from \$48.77 to \$64.71 per square foot of living area. The subject's improvement assessment of \$504,344 or \$53.46 per square foot of living area falls within the range established by the comparables in the record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's improvement assessment is equitable and no reduction is warranted.

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 the 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 appellant also argued the subject property was overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, Ill.App.3d 1038 (3rd Dist.2002). The Board finds the appellant did not meet this burden of proof.

The appellant submitted a 2006 appraisal report estimating the subject property had a fair market value of \$1,800,000 as of January 1, 2006 and a 2009 appraisal report estimating the subject property had a fair market value of \$1,545,000 as of January 1, 2009. The board of review offered three comparable properties for consideration.

The Board gave no weight to the appellant's 2006 appraisal report. The report relied on sales from 2004 thru 2006 which are not probative or reliable indicators of value as of the subject's January 1, 2009 assessment date. The Board gave less weight to the appellant's 2009 appraisal that used only one sale. The appraisal's adjustment amounts do not appear reasonable and are not supported by any objective evidence in the record. The

appraisal was found to be incomplete as the summary of the sales comparison approach was not included as was the reconciliation. The Board finds the appraiser's second approach using the 2006 appraisal value as a benchmark and applying a factor was not persuasive or credible. The Board further finds the "macro approach" used by the appellant's appraiser relied on MLS data of which no improvement descriptions could be ascertained for comparison to the subject property. For these reasons, the Board gave less weight to the value conclusions derived from the appellant's 2006 and 2009 appraisals. However, the Board will examine the raw sales data within the record.

The record contains eight suggested comparable sales for the Board's consideration. The Board gave less weight to the sales included in the appellant's 2006 appraisal. Again, these sales occurred from 2004 to 2006, greater than 29 months prior to the subject's January 1, 2009 assessment date. The Board finds these sales are dated and not credible indicators of the subject's fair market value. The Board gave less weight to the board of review's comparables #1 and #2 due to their considerably smaller sizes when compared to the subject. The Board also gave less weight to the appellant's argument that the board of review used comparable sales located in superior school districts as no credible market data demonstrating the properties are located in a different market area was supplied as evidence.

The Board finds the two remaining sales offered by both parties were similar to the subject in age, exterior construction and some features. These comparables sold in December 2008 and May 2009 for prices of \$1,595,000 and \$1,850,000 or \$217.84 and \$270.11 per square foot of living area, land included. The subject's assessment reflects an estimated market value of \$1,825,746 or \$193.53 per square foot of living area including land, which is less than the most similar comparables in the record on a square foot basis. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's market value as reflected by the assessment is supported and no reduction based on overvaluation 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.

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: June 22, 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.