



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

APPELLANT: Sean Bolger  
DOCKET NO.: 09-03940.001-R-1  
PARCEL NO.: 09-03-402-001

The parties of record before the Property Tax Appeal Board are Sean Bolger, the appellant, by attorney Edmund P. Boland of Carey Filter White & Boland, in Chicago; and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$102,090  
**IMPR:** \$311,180  
**TOTAL:** \$413,270

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story dwelling of frame construction with cedar exterior containing 4,649 square feet of living area.<sup>1</sup> The dwelling was built in 2006 and features a full finished basement. Other features include central air conditioning, three fireplaces and a 972 square foot attached garage. The home is situated on approximately 18,042 square feet of land located in Downers Grove Township, DuPage County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming both improvement inequity and overvaluation as the bases of the appeal. The appellant did not contest the subject's land assessment. In support of these arguments, the appellant submitted a grid analysis of four suggested comparable properties, an appraisal of the subject property, photographs of surrounding properties near the subject property and a printout

<sup>1</sup> The appellant reports the subject improvement as having 4,276 square feet of living area. The board of review reports the subject improvement as having 4,649 square feet of living area.

from realtor.com disclosing a property at 276 Oxford Avenue sold for \$1,100,000 on December 30, 2010. The appraisal was prepared by a state licensed appraiser, William Hall, who was not present at the hearing. The appraisal report conveys an estimated market value for the subject property of \$1,175,000 as of October 7, 2009, using the cost and sales comparison approaches to value.

Under the cost approach, the appraiser utilized the Marshall & Swift Residential Cost Handbook to estimate a replacement cost new of the subject property of \$1,299,262 or \$279.47 per square foot of living area including land.

Under the sales comparison approach to value, the appraiser utilized four comparable sales and two listings located from 0.23 to 0.83 of a mile from the subject property. The comparables have lot sizes ranging from 8,400 to 14,283 square feet of land area. The comparables consist of two-story frame or masonry dwellings that contain from 3,256 to 4,265 square feet of living area. The dwellings were built from 2000 to 2007 and have full finished basements.<sup>2</sup> Other features include central air conditioning, between one to three fireplaces and garages ranging in size from 399 to 704 square feet of building area. The comparable sales sold from June to September 2009 for prices ranging from \$1,021,000 to \$1,250,000 or from \$251.55 to \$313.57 per square foot of living area including land. The two listings had offerings of \$1,189,000 and \$1,349,000 or \$323.19 and \$351.67 per square feet of living area including land, respectively.

The appraiser adjusted the comparables for differences when compared to the subject in sales or financing concessions, site, view, quality of construction, room count, gross living area, rooms below grade, garage/carport, porch/patio/deck, fireplace and upgrades. The adjustments resulted in adjusted sale prices ranging from \$1,093,000 to \$1,286,100, land included.

Under reconciliation, the appraiser placed more weight on the sales comparison approach and opined an indicated value of the subject property of \$1,175,000 as of October 7, 2009.

The appellant's evidence also disclosed that the subject sold in August 2007 for a price of \$1,290,000.

In support of the improvement inequity argument, the appellant submitted a grid analysis of four suggested comparable properties located from one-half to one block from the subject. The appellant's inequity comparable #4 is the same property as the appellant's sale comparable #1. The comparables are described as two-story frame and masonry dwellings containing from 3,760 to 5,132 square feet of building area. The comparables are reported to have full basements, one of which has finished area. Other features include central air conditioning, one or two fireplaces and garages ranging in size from 440 to 998 square feet of

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<sup>2</sup> The board of review reports only two of the appellant's appraisal comparables have finished basement area.

building area. The comparables have improvement assessments ranging from \$245,590 to \$337,590 or from \$61.93 to \$67.97 per square feet of living area. The subject's improvement assessment is \$311,180 or \$66.93 per square foot of living area using 4,649 square feet for the subject.

The appellant testified that his wife took the photographs that were submitted as evidence. The appellant stated the first group of photographs are of a property located within 200 feet from the subject and depicts a recreational vehicle parked beside a one-story home. A second group of photographs depict a storage facility for a roofing company located within 500 feet from the subject. Another group of photographs depict a travel trailer parked next to a one-story home. Counsel for the appellant argued these pictures depict one of the reasons for the decline in the subject's market value.

In addition, counsel argued the sale of the comparable located at 276 Oxford Avenue supports a decline in the subject's market area.

Under cross-examination, the board of review's representative, Charles Van Slyke, asked the appellant if the properties depicted in the photographs of the neighboring properties were present when he purchased the property for \$1,290,000 in August 2007. The appellant replied, "Correct".

Based on this evidence, the appellant requested the subject's improvement assessment be reduced to \$289,537 or the subject's total assessment be reduced to \$391,627.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$413,270 was disclosed. The subject's assessment reflects an estimated market value of \$1,242,544 or \$267.27 per square foot of living area, using 4,649 square feet for the subject, including land using DuPage County's 2009 three-year median level of assessments of 33.26%.

In support of the subject's assessment, the board of review submitted an analysis with property record cards of three equity comparables and four comparable sales. The comparables proximate locations to the subject were not disclosed. The comparables are described as two-story frame or masonry dwellings containing from 3,463 to 4,693 square feet of building area. The dwellings were built from 2001 to 2006 and have full or partial basements, one of which is unfinished. The comparables have garages ranging in size from 584 to 980 square feet of building area. Other pertinent features, such as central air conditioning and number of fireplaces, were not disclosed. The equity comparables have improvement assessments ranging from \$234,360 to \$318,770 or from \$67.68 to \$68.25 per square feet of living area.

The four sale comparables sold from October 2007 to August 2008 for prices ranging from \$1,195,000 to \$1,450,000 or from \$279 to

\$349 per square foot of living area including land. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

During the hearing, Van Slyke, objected to the use of the appellant's appraisal because the appraiser was not present to answer questions as to the choice of comparables and methodology used to adjust the comparables.

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

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 this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant 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 (3<sup>rd</sup> Dist.2002). The Board finds the appellant has not met this burden of proof.

The parties disputed the dwelling size of the subject. The appellant reported a dwelling size of 4,276 square feet of living area based on a sketch within the subject's appraisal. The board of review reported a dwelling size of 4,649 based on the subject's property record card. The sketch offered by the board of review is more detailed than that offered by the appellant, which lends more to its credibility. The Property Tax Appeal Board finds for the purpose of this analysis, the subject has 4,649 square feet of living area based on the record.

The Board finds the appellant's photographs of neighboring properties, which were present when the subject was purchased by the appellant for \$1,290,000 in August 2007, are not direct evidence of a decline in the subject's market value.

The Board finds the appellant's realtor.com printout disclosing a property at 276 Oxford Avenue sold for \$1,100,000 on December 30, 2010 is not probative of the subject's fair market value as of the subject's assessment date of January 1, 2009.

The appellant submitted an appraisal report estimating the subject property had a fair market value of \$1,175,000 as of October 7, 2009. The board of review offered four comparable properties for consideration.

The board of review's representative, Charles Van Slyke, objected to the use of the appellant's appraisal because the appraiser was not present to answer questions as to the choice of comparables and methodology used to adjust the comparables.

The Property Tax Appeal Board hereby sustains the objection by the board of review.

In the absence of the appraiser for the hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appraiser. The Board finds the appraisal report is tantamount to hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. In Novicki v. Department of Finance, 373 Ill. 342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1<sup>st</sup> Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined.

The Board finds both parties submitted a total of eight sales for the Board's consideration. The Board gave less weight to the appellant's comparables #2 and #3 due to their considerably smaller sizes when compared to the subject. The Board gave less weight to the board of review's comparable #7 due to its sale date occurring greater than 14 months prior to the subject's January 1, 2009 assessment date.

The Board finds the remaining five sales offered by both parties were most similar to the subject in location, size, style, exterior construction and features. These sales occurred from June 2008 to September 2009 for prices ranging from \$1,055,000 to \$1,450,000 or from \$252 to \$349 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$1,242,544 or \$267.27 per square foot of living area including land, using 4,649 square feet of living area. The subject's assessment is within the market value range of the best comparables in the record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported and no reduction in the subject's assessment is warranted.

The appellant also argued unequal treatment in the assessment process. 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. After an analysis of the assessment evidence, the Board finds the appellant has not met this burden.

The appellant submitted four improvement inequity comparables, one of which was used in the appellant's appraisal. The board of review submitted three improvement equity comparables for the Board's consideration. The Board gave less weight to the appellant's inequity comparables #2 and #3 due to their considerably smaller sizes when compared to the subject. Likewise, the Board gave less weight to the board of review's equity comparables #1 and #2 due to their considerably smaller sizes when compared to the subject. The Board finds the remaining three comparables offered by both sides are most similar to the subject in location, size, exterior construction and features. These comparables have improvement assessments ranging from \$259,720 to \$337,590 or from \$61.93 to \$67.97 per square foot of living area. The subject has an improvement assessment of \$311,180 or \$66.93 per square foot of living area using 4,649 square feet, which falls within the range established by the most similar comparables in the record. The Board therefore finds the subject's improvement assessment is not excessive 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.

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: October 19, 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.