



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

APPELLANT: Carl Kulhan
DOCKET NO.: 09-04872.001-R-1 through 09-04872.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Carl Kulhan, the appellant; and the DuPage County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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:

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|------------------|---------------|---------|---------|-----------|
| 09-04872.001-R-1 | 09-15-404-005 | 121,280 | 0 | \$121,280 |
| 09-04872.002-R-1 | 09-15-404-006 | 121,280 | 39,370 | \$160,650 |

Subject only to the State multiplier as applicable.

ANALYSIS

The subject properties consist of two adjacent parcels each containing 44,117 square feet of land area. Parcel #1 (09-15-404-005) is an unimproved lot. Parcel #2 (09-15-404-006) is improved with a two-story Cape Cod style dwelling of frame and masonry construction containing 1,288 square feet of living area. The dwelling was originally built in 1957 with an additional family room and garage built in 1960. Features include a full unfinished basement, a fireplace and an attached 440 square foot garage. Both parcels are located in Downers Grove Township, DuPage County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming both unequal treatment in the assessment process and overvaluation as the bases of the appeal. In support of these arguments for Parcel #1, the appellant submitted a grid analysis of four suggested comparable properties and an appraisal. The appraisal report conveys an estimated market value for Parcel #1 of \$270,000 as of January 1, 2009, using the sales comparison approach to value. The appraisal was prepared by two state licensed appraisers, who were not present at the hearing.

Under the sales comparison approach to value, the appraisers utilized four comparable sales located from 1.11 to 2.48 miles from the subject property. The comparables have lot sizes ranging from 11,000 to 40,600 square feet of land area. The photographs included in the appraisal depict comparables #1, #3 and #4 as being improved. The comparable sales sold from February 2007 to October 2008 for prices ranging from \$148,000 to \$401,000 or from \$9.87 to \$14.20 per square foot of land area.

The appraisers adjusted the comparables for differences when compared to the subject in date of sale and time adjustment, site/view and external obsolescence and homes. The adjustments resulted in adjusted sale prices ranging from \$245,000 to \$278,700 from which the appraisers opined a value of the subject property of \$270,000 as of January 1, 2009.

In support of the inequity argument, the appellant submitted a grid analysis of four suggested comparable properties located from 0.3 to 0.6 of a mile from the subject. Three of the comparables are located within the same neighborhood code as the subject as assigned by the local assessor. The comparables have lot sizes ranging from 33,060 to 83,358 square feet of land area. Comparables #1 and #4 have building assessments. The comparables have land assessments ranging from \$99,240 to \$119,790 or from \$1.38 to \$3.24 per square feet of land area. The subject's land assessment is \$121,280 or \$2.75 per square foot of land area.

The appellant's inequity comparables #1 and #2 also sold in July and August 2009 for prices of \$215,000 and \$263,000 or \$6.50 and \$4.77 per square feet of land area, respectively.

The appellant argued the assessors didn't take into account the actual location of the property in regards to its surrounding conditions. The appellant testified that the subject is next to 63rd street, which is a busy 4-lane road. In addition, the property is unincorporated and is located next to a pond that floods. The appellant also claims the assessors did not view the property.

Based on this evidence, the appellant requested Parcel #1's land assessment be reduced to \$93,330 or \$2.12 per square foot of land area.

In support of the arguments for Parcel #2, the appellant submitted a grid analysis of four suggested comparable properties and an appraisal. Equity comparable #2 is the same property as the appellant's appraisal comparable #1. The appraisal report conveys an estimated market value for Parcel #2 of \$310,000 as of January 1, 2009, using the sales comparison approach to value. The appraisal was prepared by two state licensed appraisers, who were not present at the hearing.

Under the sales comparison approach to value, the appraisers utilized three comparable sales located from 0.25 of a mile to

1.02 miles from the subject property. The comparables have lot sizes ranging from 11,550 to 44,140 square feet of land area. The comparables are improved with one-story or one and one-half story frame or masonry dwellings containing from 1,144 to 1,525 square feet of living area. The comparables have basements, one of which is partially finished. Other features include central air conditioning and two-car garages. The comparable sales sold from July 2008 to August 2009 for prices ranging from \$255,400 to \$445,000 or from \$219.02 to \$310.97 per square foot of living area.

The appraisers adjusted the comparables for differences when compared to the subject in date of sale/time, site, view, quality of construction, condition, room count, gross living area and rooms below grade. The adjustments resulted in adjusted sale prices ranging from \$305,220 to \$314,890, which the appraisers opined a value of the subject property of \$310,000 as of January 1, 2009.

In support of the inequity argument, the appellant submitted a grid analysis of four suggested comparable properties located from 0.25 of a mile to 1 mile from the subject. One of the comparables is located within the same neighborhood code as the subject as assigned by the local assessor. The comparables have lot sizes ranging from 21,600 to 49,320 square feet of land area. The comparables are improved with one-story, one and one-half story or two-story dwellings of frame or brick exterior construction containing from 1,440 to 2,176 square feet of living area. The comparables have full or partial unfinished basements. Three comparables have central air conditioning and two comparables have a fireplace. The comparables have garages ranging in size from 484 to 965 square feet of building area. The comparables have land assessments ranging from \$55,130 to \$99,240 or from \$2.01 to \$3.01 per square feet of land area. The subject's land assessment is \$121,280 or \$2.75 per square foot of land area. The comparables have improvement assessments ranging from \$32,440 to \$80,650 or from \$22.53 to \$46.48 per square foot of living area. The subject has an improvement assessment of \$58,980 or \$45.79 per square foot of living area.

Three of the appellant's inequity comparables sold from July 2008 to July 2009 for prices ranging from \$225,000 to \$445,000 or from \$146.51 to \$304.58 per square feet of living area, including land.

The appellant argued the assessors didn't take into account the physical condition of the structures and did not view the property.

During the hearing, the board of review's representative, Charles Van Slyke, objected to the use of the appellant's appraisals because the appraisers were not present to answer questions as to the choice of comparables and methodology used to adjust the comparables. The Board reserved ruling.

Based on this evidence, the appellant requested Parcel #2's land assessment be reduced to \$87,666 or \$1.99 per square foot of land area and its improvement assessment be reduced to \$22,000 or \$17.08 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" wherein Parcel #1's final assessment of \$121,280 was disclosed. Parcel #1's assessment reflects an estimated market value of \$364,642 or \$8.27 per square foot of land area, using DuPage County's 2009 three-year median level of assessments of 33.26%.

In support of Parcel #1's assessment, the board of review submitted an analysis with property record cards of three equity comparables, two of which were sales. The comparables proximate locations to the subject were not disclosed. The comparables have front foot sizes ranging from 75 to 184 feet. They have land assessments ranging from \$49,400 to \$121,280. The total square foot sizes of the comparables were not disclosed. The subject has 184 front feet and an assessment of \$121,280.

Two of these comparables sold in May and June 2008 for \$231,000 and \$325,000.

The Downers Grove Deputy Assessor, Chris White, testified that she has viewed the subject and that the land assessment is based on the front foot method. She also testified that comparable #1 was nearly identical to the subject and has an identical assessment.

Based on this evidence, the board of review requested the Parcel #1's assessment be confirmed.

The board of review submitted its "Board of Review Notes on Appeal" wherein Parcel #2's final assessment of \$180,260 was disclosed. Parcel #2's assessment reflects an estimated market value of \$541,972 or \$420.79 per square foot of living area including land, using DuPage County's 2009 three-year median level of assessments of 33.26%.

In support of Parcel #2's assessment, the board of review submitted an analysis with property record cards of six equity comparables, three of which are sales. Comparable #3 is an unimproved property. The comparables proximate locations to the subject were not disclosed. The comparables have front foot sizes ranging from 75 to 173 feet. The total square foot sizes of the comparables were not disclosed. The comparables are described as one or one and one-half story dwelling of frame or masonry construction containing from 1,054 to 1,499 square feet of building area. The dwellings were built from 1955 to 1971 and have full or partial unfinished 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 three sale comparables included one unimproved sale in June 2008 for \$325,000. The remaining two sales sold in April 2007 and January 2008 for prices of \$402,500 and \$345,000 or \$285 and \$238 per square foot of living area including land, respectively.

Based on the evidence presented, the board of review requested confirmation of the subject's 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 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 (3rd Dist.2002). The Board finds the appellant has not met this burden of proof for Parcel #1, but has met this burden of proof for Parcel #2.

The appellant submitted two appraisal reports estimating Parcel #1 had a fair market value of \$270,000 as of January 1, 2009 and Parcel #2 had a fair market value of \$310,000 as of January 1, 2009. The appellant also submitted comparable grids for both properties which include four comparables each. The board of review offered three comparables for Parcel #1 and six comparables for Parcel #2 for consideration.

The board of review's representative, Charles Van Slyke, objected to the use of the appellant's appraisals because the appraisers were 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 (1st 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.

Regarding Parcel #1, the Board finds both parties submitted a total of eight sales for the Board's consideration. The Board further finds the board of review failed to disclose the square foot sizes of their comparables necessary to compare to the subject. There sales have adjusted front foot sizes of 75 and 120 feet or \$3,080 and \$2,708 per front foot respectively. There is no indication that a prospective buyer would purchase a property for its front foot exposure as opposed to the square foot size of a parcel. Therefore, the Board gave less weight to the board of review's comparables. The Board gave less weight to the appellant's appraisal comparable #1 due to its sale date occurring greater than 22 months prior to the subject's January 1, 2009 assessment date. The Board also gave less weight to the appellant's appraisal comparables #3 and #4 due to their considerably smaller sizes when compared to the subject.

The Board finds the remaining three sales offered by the appellant were most similar to the subject in location and size. These sales occurred from June 2008 to August 2009 for prices ranging from \$215,000 to \$325,000 or from \$4.77 to \$10.19 per square foot of land area. The subject's assessment reflects an estimated market value of \$364,642 or \$8.27 per square foot of land. 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 Parcel #1's estimated market value as reflected by its assessment is supported and no reduction in the subject's assessment is warranted.

Regarding Parcel #2, the Board finds both parties submitted a total of seven sales for the Board's consideration. The appellant's grid comparable #2 is the same property as the appellant's appraisal comparable #1. The Board gave less weight to the board of review's comparable #1 due to its sale date occurring greater than 20 months prior to the subject's January 1, 2009 assessment date. The Board finds the remaining six sales offered by both parties were most similar to the subject in location, size and features. These sales occurred from January

2008 to August 2009 for prices ranging from \$225,000 to \$445,000 or from \$146.51 to \$310.97 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$541,972 or \$420.79 per square foot of living area including land. The subject's assessment is above the market value range of the best comparables in the record. After considering adjustments to the comparables for differences when compared to the subject such as the subject's larger lot size, the Board finds Parcel #2's estimated market value as reflected by its assessment is excessive and a reduction in Parcel #2'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.

Regarding Parcel #1, the Board finds both parties submitted eleven land comparables for the Board's consideration. The Board further finds the board of review failed to disclose the square foot sizes of their comparables necessary to compare to the subject. These comparables have adjusted front feet sizes ranging from 78 to 184 feet or from \$654.50 to \$659.13 per front foot. Due to the lack of disclosure of the square foot sizes by the board of review, these comparables received less weight in the land analysis. The Board gave less weight to the appellant's appraisal comparable #1 due to its sale date occurring greater than 22 months prior to the subject's January 1, 2009 assessment date. The Board also gave less weight to the appellant's appraisal comparables #3 and #4 due to their considerably smaller sizes when compared to the subject. The Board gave less weight to the appellant's grid comparable #3 due to its considerably larger size when compared to the subject. The Board finds the remaining four comparables offered by the appellant are most similar to the subject in location and size. These comparables have land assessments ranging from \$78,540 to \$119,790 or from \$2.01 to \$3.24 per square foot of land area. The subject has a land assessment of \$121,280 or \$2.75 per square foot of land area, which falls within the range established by the most similar comparables in the record on a square foot basis. The Board therefore finds the subject's land assessment is not excessive and no reduction is warranted based on equity.

Regarding Parcel #2, the Board finds both parties submitted a total of eleven comparables for the Board's consideration. The appellant's grid comparable #2 is the same property as the appellant's appraisal comparable #1. The Board gave less weight to the appellant's grid comparable #4 due to its considerably larger size when compared to the subject. The Board gave less

weight to the appellant's grid comparable #1 and the appraisal's comparables #2 and #3 due to their dissimilar frame construction when compared to the subject. Likewise, the Board gave less weight to the board of review's comparables #1, #2 and #6 due to their dissimilar frame construction when compared to the subject. The Board finds the remaining four comparables offered by both parties are most similar to the subject in location, size, exterior construction and features. Due to the failure of the board of review to disclose the comparables lot sizes, the Board will not consider their land portion of their assessment in this equity analysis. The appellant's comparables have land assessments of \$55,130 and \$60,090 or \$3.01 and \$1.36 per square foot of land area, respectively. The subject has a land assessment of \$121,280 or \$2.75 per square foot of land area, which is supported by the most similar comparables in the record on a square foot basis. The Board therefore finds Parcel #2's land assessment is not excessive and no reduction is warranted based on equity.

As to Parcel #2's improvement assessment, the four remaining comparables offered by both sides have improvement assessments ranging from \$32,440 to \$66,520 or from \$22.53 to \$46.48 per square foot of living area. The subject's improvement assessment is \$58,980 or \$45.79 per square foot of living area, which is within the range of the most similar comparables in the record. Therefore, the Board finds Parcel #2's improvement assessment is not excessive and no further reduction based on equity 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.

Ronald 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.