



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

APPELLANT: Leonard Wass
DOCKET NO.: 09-05045.001-R-1
PARCEL NO.: 05-08-400-005

The parties of record before the Property Tax Appeal Board are Leonard Wass, the appellant; and the LaSalle 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 LaSalle County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 54,433
IMPR.: \$ 66,574
TOTAL: \$ 121,007

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 15,295 square foot lake front cove lot that is improved with a single-family dwelling. The subject lot has a steep slope to the water's edge. The subject parcel is located in Northville Township, LaSalle County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming a lack of uniformity regarding the subject's land assessment. The subject's improvement assessment was not contested. In support of the land inequity claim, the appellant submitted photographs, assessment records, a location map, a grid analysis detailing five suggested land comparables and an analysis of the same five comparables prepared by a local realtor.

The photographs submitted by the appellant depict the subject lot's steep slope to the water's edge. The water frontage with boat dock is accessed by a multi-level stairway.

The five comparables submitted by the appellant as detailed in Section V of the residential appeal form are located from .65 to

.7 of mile from the subject. Comparables 1 through 4 are located in a different lake cove than the subject. Comparable 5 is located on the main body of the lake. The lots range in size from 13,818 to 17,032 square feet of land area and have land assessments ranging from \$30,338 to \$40,977. The subject property has a land assessment of \$54,433.

The realtor analysis, prepared by Sam Hamilton of Coldwell Banker Honig-Bell, used the same five comparables that were contained in Section V of the residential appeal form. The report was titled "Independent Realtor Appraisal of Subject Land Value Assessment as Compared with Comparables' Assessments." The realtor was not present at the hearing for direct or cross-examination regarding the data and assessment conclusion contained in the report. Again, these same five comparables have land assessments ranging from \$30,338 to \$40,977. Based on the comparables, the analysis states the subject property should have an assessment of \$40,977 or lower since 15 Holiday Drive (comparable 5) is a much more valuable lot (than the subject). The report describes lot 15 as "gently sloping and on the main part of the lake whereas yours (subject) is steep and on a cove." The realtor opinion states the subject lot has two factors which substantially reduce its attractiveness: 1. It is located in a cove: and 2. It is on an extremely steep slope making it difficult to go to and from shore and also expensive to maintain.

At the hearing, Wass produced some enlarged photographs of the subject lot depicting its steep sloping terrain. Wass argued that the subject suffers from a unique problem. He explained the original builder poured loose excavated clay on the hillside exasperating the steepness. He testified the earth is constantly moving toward the lake. The appellant testified he spent over \$50,000 a few years ago to install boulders and wooden railroad ties to stop the moving earth. The appellant also testified he periodically spends thousands of dollars to repair the multi-level stairway that tilts and shifts due to the moving earth. The appellant, based on the advice of the realtor, argued that steep lots should be assessed differently than gently sloping lots.

Based on this evidence, the appellant requested a reduction in the subject's land assessment to \$40,977.

Under cross-examination, Wass testified he purchased the subject property in 1988, which was improved with a dwelling and the stairway for lake access. He could not recall the sale price. The boulders and railroad ties were installed a few years after purchase. He also installed a new boat dock when the lake was drained for damn repairs. The stairway has been repaired several times. He also installed landscaping. The appellant disagreed the repairs performed constituted deferred maintenance or land stewardship. He testified he is the only property owner located in the cove that has made these types of extensive repairs. The appellant testified neighboring hillsides are more stable and their owners have not made or needed any repairs. The appellant

acknowledged neighboring properties have built some stairways for lake access.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$121,007 was disclosed. The subject property has a land assessment of \$54,433.

In support of the subject's land assessment, the board of review submitted a letter addressing the appeal and a location map (Attachment a) depicting the location of the appellant's and board of review's comparables. The location map indentified four coves, numbered 1 though 4. The board of review submitted photographs depicting the four numbered coves (Attachment b), including the cove where the subject is located. The board of review also submitted a limited assessment analysis (Attachment c) for 51 suggested land comparables that were segregated by cove numbers 1 through 4. The board of review also provided a Real Estate Transfer Declaration for a lot sale located in the subject's cove. Finally, the board of review submitted information regarding comparable 5 submitted by the appellant (Attachment 1).

Judie McConville, Chairman for the LaSalle County Board of Review presented the evidence on behalf the board of review. McConville emphasized the basis of the appellant's appeal was uniformity of the subject's land assessment, not its market value. She argued the subject lot is equitably assessed with neighboring properties. McConville testified the subject lot is located in Cove 3, which is a a deeper and wider cove than the other three coves indentified in Attachment a. She further explained appellant's comparables 1 through 4 are located in Cove 1, which is a shallow cove near the marina. This cove is very busy in summer. McConville testified Coves 1 and 2 tend to recede during hot and dry weather.

With respect to appellant's comparable 5 (15 Holiday Drive), McConville explained this property had its assessment reduced in 2004 based on a sale and the fact the dwelling was uninhabitable due to its condition. However, McConville explained this comparable's land assessment was reduced in error. In 2008, the comparable had its improvement assessment increased to reflect fair market value, but the township assessor overlooked the land assessment at that time. Its land assessment is scheduled to be increased in 2011.

McConville next referred to Attachment c, which contained the land assessments for 51 suggested land comparables located in four different coves on Lake Holiday, including four of the comparables submitted by the appellant. The first section lists 11 land comparables located in Cove 3 like the subject. Cove 3 was described as a wide cove with deep water. McConville described Cove 3 as the nicest of the four coves researched. The comparables have land assessments ranging from \$47,346 to \$66,359. The immediate neighboring properties have land

assessments of \$54,433 or \$57,258. One land comparable sold in September 2006 for \$220,000. The subject property has a land assessment of \$54,433.

The next section of Attachment c lists four land comparables located in Cove 4. McConville described Cove 4 as a private, very narrow cove with no depth. These properties have land assessments ranging from \$44,575 to \$116,768. The next section of Attachment c lists 15 land comparables located in Cove 2. McConville described Cove 2 as a private, very narrow cove with no depth like Cove 4. These properties have land assessments ranging from \$45,625 to \$58,384. One comparable sold in November 2006 for \$164,750. The next section of Attachment c lists 21 land comparables located in Cove 1. McConville described Cove 1 as a public cove with a marina. The cove is not quite and is very busy in the summer months because this is where boats come to get gasoline. The comparables located in Cove 1 have land assessments ranging from \$30,338 to \$58,384. The properties with lower land assessment (\$30,338 to \$34,318) were also utilized by the appellant. These properties are located near the end of the cove in close proximity to the marina.

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

Under cross-examination, it was explained the land assessments in Cove 1 were not changed after an island was removed because it is a high traffic area due to the proximity of the marina. The methodology of establishing assessments was also discussed, with location as the main criteria. Topography, depth and water access were considerations in assessing lots based on market transactions.

In rebuttal, the appellant submitted a letter that states in part that the board of review believes coves at Lake Holiday vary in market value depending on water depth, fish species, boat traffic and other subjective criteria particular to that cove. The appellant argued these claims are irrelevant to the market value of the subject lot. The appellant claims all lots in the subject's cove are over-assessed. The appellant claimed land values have plummeted by 30%, but submitted no credible evidence to support this claim. The appellant claims his lot is the steepest on the lake and one of the most undesirable lots. The appellant also submitted another letter from the local realtor that reiterated his opinion as to the subject's correct assessment, placing most emphasis on lot 15 (appellant's comparable 5). The appellant owns another lot on Lake Holiday near the marina, which was dredged approximately 10 years ago and has deep water. It had been listed for sale at \$230,000, but was reduced to \$180,000 before being withdrawn from the market due to no offers over several years. The appellant also argued the land assessments increased dramatically after the island was removed and the cove was dredged. The appellant opined Cove 1 is superior to Cove 3. The appellant also argued the township

assessor was not available to address valuation issues nor was that person present at the hearing to testify.

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's assessment is warranted.

The appellant argued the subject property was inequitably 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. After an analysis of the evidence, the Board finds the appellant has not overcome this burden of proof.

The Property Tax Appeal Board finds the parties submitted 52 suggested land comparables for consideration. The Board gave most weight to the six comparables located in Cove 3 like the subject. Additionally, these comparables are the neighboring properties to the subject. These most similar comparables have land assessments of \$54,433 or \$57,258. The subject lot has a land assessment of \$54,433, which is identical to five of the six most similar land comparables contained in this record. The Property Tax Appeal Board finds the subject's land assessment is well supported by the most similar land comparables contained in this record. Therefore, no reduction is warranted.

The Board further finds the manner in which the appellant's argument was posed with respect to the perceived diminished valuation of land due detrimental factors is not supported. The Board finds this type of argument mainly pertains to a market value complaint. The appellant argued in part that since the subject's lot is extremely steep, it is difficult to go to and from shore. Additionally, the appellant argued the subject lot is expensive to maintain since the land is constantly moving toward the lake. The appellant testified he has spent over \$50,000 to install boulders and wooden railroad ties to stop the moving earth. The appellant also testified he periodically spends thousands of dollars to repair the multi-level stairway that tilts and shifts due to the moving earth. To further support his claim, the appellant presented an analysis prepared by a local realtor. The Board finds the realtor analysis contained no objective evidence to support the realtor's opinion as to the correct assessment of the subject lot. More importantly, the realtor was not present at the hearing for direct and cross-examination regarding his value opinion. As stated by the Supreme Court of Illinois "[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." (Emphasis added). Novicki v. Department of Finance, 373 Ill.342 (1940); Grand Liquor Company, Inc. v. Dept. of Revenue, 67 Ill.2d 195 (1977).

Although this issue was referred to anecdotally in the appellant's appeal, the Board finds the appellant submitted no credible market evidence that would suggest the subject's assessment is not reflective of its fair cash value. In fact, the Board finds this record contains limited market data that supports the subjects land assessment. The board of review submitted a land sale from the subject cove, which sold in September 2006 for \$220,000. The subject's 2009 land assessment reflects an estimated market value of \$163,329, considerably less than this sale. Furthermore, under rebuttal the appellant presented the listing price of a steep lakefront lot, without objection. The lot was listed for sale at \$189,000 for over a year and one-half with no offers to purchase. This listing price further supports the subject's land assessment, which reflects an estimated market of \$163,329.

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 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.

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

Marko M. Louie

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.