FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Gerald J. Dupasquier, F.L.P.
DOCKET NO.: 09-05486.001-R-1
PARCEL NO.: 08-122-017-00

The parties of record before the Property Tax Appeal Board are Gerald J. Dupasquier, F.L.P., the appellant, and the Jo Daviess 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 **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$25,270
IMPR.:	$0
TOTAL:	$25,270

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is a vacant wooded lot consisting of 1.192-acres or 51,924 square feet of land area. The parcel is located in The Galena Territory, Guilford Township, Jo Daviess County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation with the basis of the appeal being comparable sales.[1] As stated in his brief, the appellant is a licensed Illinois real estate broker and member of the Realtor® Association of Northwestern Illinois Multiple Listing Service (MLS). In support of the market value argument, the appellant submitted information concerning the "current" listing price of the subject parcel, comparable sales and area market data.

As part of the appeal, the appellant reported the subject parcel was purchased in May 2002 for $42,500. As of the filing of this appeal in June 2010, the subject property was listed in the MLS

[1] A consolidated hearing was held on a total of eight vacant parcels owned by the appellant identified as Docket Nos. 09-05474.001R-1, 09-05478.001-R-1, 09-05483.001-R-1, 0905486.001-R-1, 09-05490.001-R-1, 0905493.001-R-1, 09-05497.001-R-1 and 09-05500.001-R-1. Individual decisions will be rendered for each parcel with the applicable evidence presented.

with an asking price of $79,900. A copy of the MLS sheet depicted an original listing date of June 14, 2007. At the hearing, the appellant testified that the property had been on the market for three or four years with few if any offers. The listing sheet for the subject sets forth the topography as "slope to rear" and property type "wooded." The appellant further testified that the subject parcel sold in December 2010 for $15,000. The appellant provided no other details of the transaction or any documentation that would demonstrate the sale was an arm's-length transaction.

The board of review objected to the testimony of the 2010 sale price at hearing as the board of review had no opportunity to respond to or rebut the appellant's assertion that the sale was arm's-length and reflective of the property's fair market value as of the assessment date of January 1, 2009. Furthermore, the board of review noted that the sale occurred nearly two years after the assessment date at issue. The objection was taken under advisement.

In support of the overvaluation argument, the appellant submitted seven comparable sales outlined in the appellant's brief by address, date of sale and price with copies of MLS sheets for each comparable attached. The appellant contends these comparables are "the closest proximity and character to 3 Haven Lane [the subject]. All are downsloping wooded lots in areas equal in value." At hearing, the appellant further expounded that his comparables #1, #2 and #4 were "right around the corner" from the subject. Those three properties sold for $0.96 to $1.58 per square foot of land area. Based on a review of the attached MLS sheets, the seven comparable parcels are described as ranging in size from .80 to 1.14-acres or from 34,848 to 49,658 square feet of land area. The properties sold from January 2006 to June 2008 for prices ranging from $38,000 to $67,500 or from $0.96 to $1.58 per square foot of land area.

Additionally, the appellant in the brief asserted the "average selling price in the Galena Territory for 2006, 2007, and 2008 was $61,877, and the median selling price was $55,000." The appellant submitted a two-page market summary reportedly from the Realtor® Association of Northwestern Illinois to support this contention. The document provided two categories of residential land sales as those "sold in office" and those "sold co-broker." The document then depicted sales price ranges from a low of $15,000 to a high of $204,999 and how many properties sold within each price range in the two categories with a summary that 167 properties sold for a total price of $10,333,500.

The appellant also expounded at hearing upon his contention that the "values were so far off at the time and the [assessing officials] only took the highest value properties [to be found] to dispute my claim."

Based on the foregoing evidence and the average selling price of the seven comparables being $47,571.43, the appellant requested a

reduction in the subject's total assessment to $15,857 which would reflect a market value of approximately $47,571 or $0.92 per square foot of land area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $25,270 was disclosed. The subject's assessment reflects a market value of $75,886 or $1.46 per square foot of land area when applying the 2009 three year average median level of assessment for Jo Daviess County of 33.30% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

As to the listing of the subject property, the board of review asserted that the subject parcel was listed in April 2010 for $79,900. According to the listing sheets on the internet, the asking price as of January 1, 2010 for the parcel was $89,900.

In Exhibit B, the board of review presented information on seven comparable vacant land sales located in The Galena Territory. The board of review included a color map depicting the proximate location of the comparables to the subject. As shown, none of the board of review's comparables were located in the subject's section of the subdivision known as Shenandoah Unit 22. The parcels range in size from .80 to 1.561-acres or from 34,848 to 67,997 square feet of land area. The comparables sold from June 2006 to June 2008 for prices ranging from $65,000 to $104,000 or from $1.35 to $1.95 per square foot of land area.

As to the most similarly size lots presented by the board of review, comparables #2, #4 and #5, reflect an average sale price of $1.57 per square foot of land area.

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

On cross-examination, the board of review representative acknowledged that from 2009 to 2011, area values have changed "a lot."[2]

The appellant filed written rebuttal in September 2011, but made no mention of the sale of the subject property in December 2010.

As to the three sales the board of review cited as most similar to the subject, the appellant contends that those properties are in a completely different part of The Galena Territory. As depicted on the map presented by the board of review, each of these comparables is located in a different unit of the development with comparable #5 being most distant from the subject.

[2] In the course of this questioning, the appellant was reminded by the Administrative Law Judge conducting the hearing that the issue before the Property Tax Appeal Board was the correct assessment of the subject parcel as of January 1, 2009 and that subsequent declining values were not relevant to the issue before the Board for this particular 2009 appeal.

In written rebuttal and further expressed at hearing, despite the assessing officials' adoption of the methodology, the appellant vehemently objected to analyzing the comparable sales data on a per-square-foot basis. The appellant contends that for a flat lot where the entire surface of the lot was "useable" then this method would be appropriate. But in circumstances of a wooded lot where the owner can only use a fourth of it because the remainder is so steep that an individual cannot walk on it, he questioned how the entire parcel can have the same value. The appellant stated that only the front third of the subject lot was "useable" due to how steep the remainder of the lot is. He stated this methodology was "totally out of line." The appellant further contended the subject lots on appeal before the Property Tax Appeal Board are wooded and/or steep such that they are not suitable for building in some cases and otherwise not conducive to development due to topography. Furthermore, the appellant asserted that the square foot analysis is not reflective of the manner in which vacant land is bought and sold in the Galena Territories. According to the appellant, size did not matter in his numerous purchases of properties in the area. Rather the dependent factors were location, aesthetics, can a building be constructed, the neighborhoods and other similar considerations.

On cross-examination, the appellant was asked where the evidence was that this particular lot was steep to which the appellant responded, "Let's go out there."

In reply to the appellant's assertions that the board of review comparables were not proximate in location to the subject, the representative indicated the sales were selected based on similarity in size and in the time period necessary to reflect 2009 values. Those selected were not properties on the golf course or in the resort core.

In reply, the board of review representative indicated that the square foot method has been applied in The Galena Territories as a unit of comparison for land to arrive at some form of equity.

After hearing the testimony and considering the record, 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 appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not

compelled to do so, and the buyer is ready, willing, and able to buy but not forced to so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). Proof of market value may consist of an appraisal, a recent sale of the subject property, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The record contains information on fourteen comparable sales submitted by the parties in addition to the appellant's testimony that the subject parcel sold in December 2010 for $15,000. There was a pending objection to that evidence as the appellant failed to present the data prior to the time of hearing. The Property Tax Appeal Board finds there are two reasons not to consider the subject's purported December 2010 sale. First, the appellant submitted rebuttal evidence in September 2011, a date subsequent to the sale of this property, and could have reported the sale at that time, but chose not to do so. In this regard, the board of review was unable to adequately respond to the appellant's assertions regarding the sale of this property. Second, the Board finds that the appellant failed to provide any documentation to support the assertion that the sale was an arm's length transaction such as a copy of the PTAX-203 Illinois Real Estate Transfer Declaration or similar documentation which would assist in determining if the transaction qualifies as an arm's length sale which could be indicative of market value. In addition, this sale occurred 23 months after the assessment date at issue in a market that the appellant established declined "a lot" between 2009 and 2011. Thus, the Board finds that the subject's subsequent sale price has not been shown to have been an arm's length transaction and given the passage of time there is no indication that the sale price would be reflective of the property's estimated market value as of January 1, 2009. Finally, Section 16-180 of the Property Tax Code provides, in pertinent part, that "each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board" which in this proceeding was "comparable sales."

Evidence disclosed residential lots in The Galena Territories where the subject is located are valued on a square foot basis. Despite the appellant's assertion that this square foot methodology of the assessing officials does not reflect the manner in which vacant parcels are bought and sold in the area, the appellant provided no credible alternative market value evidence to establish that the method was erroneous. In fact, the appellant displayed in his area market data that sales prices range from a low of $15,000 to a high of $204,999 which reflects an extremely wide chasm in sales prices with no indication as to the sizes of the parcels that sold for those prices. Nevertheless, the appellant further asserted the average selling

price in The Galena Territory for 2006, 2007, and 2008 was $61,877 with a median selling price of $55,000. The subject's estimated market value based on its assessment falls slightly above the median and average selling prices in The Galena Territory as reported by the appellant, but still within the range of $15,000 to $204,999.

Turning to the market value evidence presented by both parties, the Board finds appellant's comparables #1, #2 and #4 along with board of review comparables #2 and #4 are most similar to the subject in lot size and/or location. These properties sold from January 2006 to June 2008. Due to the similarities to the subject in size and/or location, these comparables received the most weight in the Board's analysis. The comparables sold for prices ranging from $47,500 to $95,000 or from $0.96 to $1.95 per square foot of land area. The subject's assessment reflects a market value of $75,886 or $1.46 per square foot of land area, which is within the range established by the best comparable sales in this record.

Based on this record the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction in the subject's assessment 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.

Chairman

Member

Member

Member

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: July 19, 2013

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.