



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

APPELLANT: John Lang
DOCKET NO.: 09-05554.001-R-1
PARCEL NO.: 08-103-019-00

The parties of record before the Property Tax Appeal Board are John Lang, the appellant, and the Jo Daviess 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 **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$32,801
IMPR.: \$0
TOTAL: \$32,801

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is a vacant parcel of 4.404-acres or 191,838 square feet of land area. The terrain is downward sloping which would allow for a walkout lower level home; the lot is partially wooded. The property is located in Shenandoah Unit 3 of the Galena Territory development in Galena, Guilford Township, Jo Daviess County.

The appellant appeared before the Property Tax Appeal Board with his appraiser. The appeal is based primarily on overvaluation and also includes an equity argument within the appraiser's presentation of data. At hearing, the appellant further articulated his contention that the subject parcel is overvalued in particular given the parcel's location at the far end of the development with no nearby amenities and backing to farmland.

At hearing, the appellant called the appraiser, Michael W. Doyle, as a witness. Doyle is a State of Illinois Certified Residential Appraiser. His fee simple retrospective appraisal of the subject parcel estimated a market value of \$98,500 or \$22,366 per acre of land area as of January 1, 2009 based on the sales comparison approach to value. The purpose of the appraisal was for a property tax appeal with the Property Tax Appeal Board.

As part of the report's addendum, the appraiser stated:

An extensive review of lot sales over the past thirty four (34) months has demonstrated that lot values have remained stable over this period of time. Home values have declined, but lot values have remained stable. New construction has slowed substantially in this market, over the past two years.

The appraiser reported the subject's market area to be The Galena Territory, a 6,800-acre development which began in 1973. It consists of 3,270 parcels of which about 2,200 have homes. He further noted that the majority of the owners have primary homes in metropolitan Chicago with these being second and/or weekend homes. He reported the number of sales in 2009 were down from the number in 2008. Doyle also stated "[t]here are approximately 253 active residential listings on the market at this time" with single family sales declining in value from the prior year by about 12%. While lot value remained stable for the prior 12 to 18 months, the number of vacant lot sales decreased by half in the period with typical vacant lot marketing times being 12 to 24 months. "There are currently 166 active vacant lot listings in The Galena Territory, according to MLS data."

The highest and best use of the subject lot is for a single family residence. Doyle wrote "at this time, the cost to build is higher than the existing home market will absorb. Therefore, the highest and best use for this lot, at this time, is as vacant." At hearing, Doyle further asserted that the subject "very large lot" could be deemed either surplus or excess land, but it cannot be split. The lot is larger than average due to its location at the end of a cul-de-sac and being on the edge of the development; behind the parcel is privately owned farmland. Doyle further opined that the assessment methodology of applying a square-foot value to all parcels has skewed the value of the subject lot due to its size and there are no sales to support the purported higher value of a large lot like the subject.

In the report, the appraiser provided information on four comparable sales located from 0.15 to 4.73-miles from the subject parcel; only comparable #1 is distant from the subject property. Doyle testified that comparable #1, like the subject, is a lot at the end of a cul-de-sac and on the border of the development. These four comparables are described as parcels ranging in size from 2.53 to 4.60-acres of land area. Three parcels have a downward sloping terrain whereas one is "flat to down." Two are partially wooded and two are "mostly open." Two have mostly open views and two have "open & woods" views. The parcels were on the market for 29 to 76 days and sold between July 2006 and November 2007 for prices ranging from \$72,000 to \$95,000 or from \$20,652 to \$31,961 per acre of land area.

After making adjustments to the comparables for differences in lot size and/or the "wooded" feature from the subject, the appraiser estimated the comparables had adjusted prices ranging from \$92,648 to \$108,748 or from \$20,141 to \$42,646 per acre of

land area. In the report, Doyle stated most weight was given to sale #1 with an adjusted price of \$20,141 per acre of land area as it required the fewest adjustments. Based on this data, the appraiser estimated the subject had an estimated value under the sales comparison approach of \$98,500 or \$22,366 per acre of land area.

The appraiser also presented an equity analysis on pages 10 and 11 of the report. As an equity analysis, the appraiser set forth assessment data on the subject and nine properties, both vacant and improved, within The Galena Territory. Sale #1 in the report has an assessment of \$20,051, although this property sold in 2007 for \$95,000; the appraiser found this comparable has an estimated market value based on its assessment of \$60,153. Comparables #1, #3, #5 and #7 are improved. The nine parcels range in size from 3.250 to 12.914-acres of land area. The properties have land assessments ranging from \$19,184 to \$43,047 or from \$3,333 to \$8,712 per acre of land area. The subject lot has a land assessment of \$42,631 or \$9,680 per acre. From this data, the appraiser opined in pertinent part:

It is obvious from the above data that the subject lot is over-assessed. Six of the lots listed above are very close in size to the subject lot. Four of those lots are vacant, as is the subject lot. Actual value per acre of the lots above is in the \$21,800 per acre range. With [one exception], these are relatively similar lots, with similar appeal.

At hearing, the appellant also testified that he has been trying to sell the subject parcel and he has "not received a single offer." The parcel has been listed on the market with Eagle Ridge Realty since March 12, 2009 without offers. There was no evidence as to what the asking price has been.

Based on the foregoing evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$42,631 was disclosed. The subject's assessment reflects a market value of approximately \$128,021 or \$29,069 per acre 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)).

In response to this appeal, the board of review reported that 2009 was the quadrennial reassessment in Guilford Township and "all the lots in the Galena Territory were reassessed according to the sales based on size and location (Ex. Lakefront, golf course, etc.)." The unit of comparison is square foot and adjustments were made for size in that smaller lots had a higher per-square-foot price than larger lots according to the board of review's representative.

At hearing, the board of review's representative also contended that the average sale price of the appellant's comparables in the appraisal was \$0.63 per square foot of land area or \$27,443 per acre. Thus, the subject's estimated market value based on its assessment is only slightly above the appellant's own comparable sales.

The representative further acknowledged that there are "not an over abundance of large lots" in The Galena Territory. In support of the subject's assessment, the board of review submitted Exhibit B consisting of a spreadsheet with information on nine comparable vacant land sales located in The Galena Territory along with applicable property record cards. In a parcel map submitted with the appeal, none of the comparable is located in the same unit as the subject property. Comparables #5, #6 and #8 are located on the outer boundaries of the development like the subject with the remaining suggested comparables being interior parcels. The nine comparable parcels presented by the board of review range in size from 2 to 2.996-acres of land area. These parcels sold from January 2006 to January 2008 for prices ranging from \$58,000 to \$120,000 or from \$25,926 to \$57,197 per acre of land area. In the submission, the board of review contends all 13 sales submitted by both parties reflect an average market value of \$0.66 per square foot of land area or \$28,750 per acre.

The board of review's spreadsheet also included the land assessments of the nine comparables which range from \$23,232 to \$37,984 or from \$8,712 to \$17,424 per acre of land area.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value based on its assessment.

Utilizing the map submitted by the board of review, the Administrative Law Judge inquired as to the locational differences considered by the assessing officials in valuing parcels in The Galena Territory. The board of review's representative testified that location was considered for those parcels on the lake, the golf courses and "in the resort core." The testimony further clarified that board of review comparable #8 was not on a golf course.

In written rebuttal prepared in conjunction with the appellant's appraiser, the appellant contends that board of review comparables #1, #2 and #3 are not arm's-length transactions. In particular, comparable #3 reportedly was purchased by an adjoining landowner. The appellant provided no documentation such as a Real Estate Transfer Declaration to support that any of these three comparables did not involve an arm's-length transaction. Next, the appellant contended that comparables #5 and #6 were purchased "by a contractor to build spec homes, after the market had already gone soft." Both parcels have since been foreclosed. "Those two sales were sales that are not felt that

the buyer was acting prudently." Again, the appellant provided no documentation to support this assertion.¹ The appellant's appraiser at hearing further expounded on the contention that several parcels were purchased by a developer who later abandoned the parcels. In light of these circumstances, the appraiser testified that he will not use parcels purchased by this developer in his appraisal assignments, despite the fact that the properties were listed on the market prior to the developer's purchase of them.

The appellant also argued that none of the board of review's comparables were as large as the subject parcel which is over 4-acres; from this observation the appellant opines "that parcels over 3 acres may have what is referred to as surplus land." Such land cannot be separated and sold off and it also does not have an independent highest and best use, and it may or may not contribute value. No substantive market value data was presented to support this assertion.

In addition, the appellant provided an aerial photo of the subject property with topographic lines depicting that the subject "slopes downward quickly from the road." Thus, the appellant in rebuttal wrote "a homesite would have to be created by building up a driveway to a homesite much lower than the street level."

In rebuttal the appellant also cited to an additional large lot sale located at 108 West Morley and provided a Multiple Listing Service sheet reflecting this 4.6-acre parcel sold in November 2007 for \$95,000.

In closing in the rebuttal, the appellant contended that the size of the subject lot suggests that its value should be about \$90,164 or \$0.47 per square foot or \$20,473 per acre of land area.

Pursuant to the rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)) [Emphasis added.]. In light of these rules, the Property Tax Appeal Board has not considered the additional comparable sale submitted by appellant in conjunction with his rebuttal argument or the argument regarding the topography of the subject property necessitating additional ground work to prepare a homesite. Each of these matters is new evidence raised in rebuttal rather than appropriate rebuttal data to the presentation made by the board of review.

¹ At hearing, the board of review's representative contended that the foreclosure did not occur until 2011 and the parcels had been listed on the open market prior to the sale which was reported by the board of review.

After hearing the testimony and reviewing 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 warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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); 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted an appraisal of the subject property with an estimated value conclusion as of the assessment date of \$98,500 or \$22,366 per acre of land area. The value conclusion was based upon consideration of four comparable sales, one of which was similar to the subject in lot size and the other three were adjusted for their smaller sizes by \$12,000 per acre of land area. This process resulted in adjusted prices for the comparables ranging from \$20,141 to \$42,646 per acre of land area.

Having considered the record, the Board finds the best evidence of market value to be the appraisal of the subject property submitted by the appellant. The appellant's appraiser developed the sales comparison approach to value and gave most weight to the most similar comparable, sale #1. The sales utilized by the appraiser were similar to the subject in location and/or size with adjustments for differences. These comparables also sold proximate in time to the assessment date at issue. The appraised value of the subject parcel is below the market value reflected by its assessment. The subject has an estimated market value based upon its assessment of \$128,021 or \$29,069 per acre of land area.

The board of review sought to support the subject's estimated market value with nine sales of comparables that range in size from 2 to 2.996-acres of land area. These comparables sold for unadjusted prices ranging from \$25,926 to \$57,197 per acre of land area. In analyzing the comparable sales presented by the board of review, the Property Tax Appeal Board finds comparables #5, #6 and #8 were most similar to the subject's location by being on the outer edge of The Galena Territory development. As such, the Board would give most weight to these three sales which occurred in January 2006 and January 2007 for prices ranging from \$25,926 to \$38,991 per acre of land area. However, these three comparables range in size from 2.18 to 2.757-acres of land area whereas the subject consists of 4.404-acres of land area. In conclusion, less weight was given to the comparable sales

presented by the board of review due to differences from the subject in location and/or size.

Based on this record the Board finds the subject property had a market value of \$98,500 as of January 1, 2009. Since market value has been determined the 2009 three year average median level of assessment for Jo Daviess County of 33.30% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)/(2)).

Having adjusted the subject's assessment based upon the market value argument and the appraisal evidence, the Board finds that the subject's assessment is now equitable and no further analysis or adjustment of the subject's assessment is warranted based upon the appellant's inequity argument.

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: July 19, 2013

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.