



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

APPELLANT: Harold & Erika Atchley
DOCKET NO.: 10-01095.001-R-1
PARCEL NO.: 13-2-21-04-05-102-005

The parties of record before the Property Tax Appeal Board are Harold and Erika Atchley, the appellant, and the Madison 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 **Madison** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$12,040
IMPR.: \$71,300
TOTAL: \$83,340

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story single family dwelling of brick and vinyl siding exterior construction with 1,785 square feet of living area. The dwelling is approximately ten years old. Features of the home include a full basement that is partially finished, central air conditioning, two fireplaces and a two-car attached garage. The property is located in Glen Carbon, Collinsville Township, Madison County.

The appellant, Harold Atchley appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$240,000 as of January 15, 2011. The appraiser was not present at the hearing. In estimating the market value of the subject property the appraiser developed the sales comparison approach using three comparables sales improved with a one-story dwelling and two two-story dwellings located in Glen Carbon. The dwellings ranged in age from 9 to 11 years old and had similar features as the subject property. These properties sold from June 2009 to December 2010 for prices ranging from \$220,000 to \$263,500 or from \$105.88 to \$146.96 per square foot of living area, including land. After making adjustments to the comparables for differences from the subject property the appraiser arrived at

adjusted prices ranging from \$230,000 to \$260,500. Based on this analysis the appraiser estimated the subject property had a market value of \$240,000 as of January 15, 2011.

The appraiser described the subject property as having 16,348 square feet of land area but explained in a supplemental addendum that there is an apparent discrepancy concerning the size of the subject's fee simple lot. The appraiser explained that the size of the lot as described in the subdivision amendment recorded in August 2003 is 16,348 square feet of land area. He also stated that the original subdivision plat recorded in January 1997 described the lot size as 11,675 square feet. He asserted in the report the loss in value if the original plat size takes precedent over the amended size would be \$30,000.

At the hearing the appellant also discussed ongoing issues he is having trying to obtain the correct legal description of the subject property. The appellant contends the Plat Act (765 ILCS 205/.01) was not complied with during the development of the subject's subdivision. He argued that the violations caused an incorrect deed of conveyance to be issued in June 2001 when he was sold the lot. He asserted that the subject property has two plats, two deeds and two different legal descriptions on the Recorder's records and as a result he does not have a free and clear title to the property.

The record further revealed the appellants filed the appeal directly to the Property Tax Appeal Board following receipt of the notice of the application of a township equalization factor dated February 22, 2011. The notice indicated the subject's assessment was increased by an equalization factor of 1.0131 resulting in an increase in the assessment from \$83,340 to \$84,430. The assessment notice indicated the equalized assessment reflected a market value of \$253,320.

Based on this record the appellant requested the subject's assessment be reduced to \$0.

The board of review submitted its "Board of Review Notes on Appeal" and asserted the Property Tax Appeal Board's decision be based on the decision issued by the Board the prior tax year (2009) under Docket No. 09-00078.001-R-1. The Property Tax Appeal Board takes notice that in the 2009 appeal it confirmed the assessment of the subject property as established by the Madison County Board of Review totaling \$83,340. (86 Ill.Admin.Code §1910.90(i)). At the hearing the chairman of the board of review testified the subject property is assessed as having 16,348 square feet of land area.

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 the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellants contend in part 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 do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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). 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of value in the record is the appraisal submitted by the appellants estimating the subject property had a market value of \$240,000 as of January 15, 2011. The subject's equalized assessment reflects a market value of \$253,320, which is greater than the appraised value. Although the appraiser was of the opinion there should be a reduction in value of \$30,000 if the subject property has a smaller lot size, there was no market data in the record to support this assertion. In fact, the appraiser only made positive \$2,000 adjustments to comparable sales #1 and #2 due to their purported smaller land size when compared to what the appraiser used as the subject's site size.

The Board further finds the record indicates that the appellants appealed the assessment directly to the Property Tax Appeal Board following the receipt of the notice of the application of a township equalization factor. Due to the fact the appeal was filed after notification of an equalization factor, the amount of relief that the Property Tax Appeal Board may grant is limited. Section 1910.60(a) of the rules of the Property Tax Appeal Board states in part:

If the taxpayer or owner of property files a petition within 30 days after the postmark date of the written notice of the application of final, adopted township equalization factors, the relief the Property Tax Appeal Board may grant is limited to the amount of the increase caused by the application of the township equalization factor. 86 Ill.Admin.Code §1910.60(a).

Additionally, section 16-180 of the Property Tax Code (35 ILCS 200/16-180) provides in pertinent part:

Where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalization factor assigned to all property or to a class of property by the board of review, the Property Tax Appeal Board may not grant a reduction in the assessment greater than the amount that was added as the result of the equalization factor.

These provisions mean that where a taxpayer files an appeal directly to the Property Tax Appeal Board after notice of application of an equalization factor, the Board cannot grant an assessment reduction greater than the amount of increase caused by the equalization factor. Villa Retirement Apartments, Inc. v. Property Tax Appeal Board, 302 Ill.App.3d 745, 753 (4th Dist. 1999).

The appellants also asserted there is an error in the subject's description or conflicts with the platting of the subject lot that has prevented them from obtaining a clear title to the property. The Property Tax Appeal Board finds it has no authority to review or compel the property in question to be properly platted or described for assessment purposes. The Property Tax Appeal Board has limited authority as provided by the Property Tax Code. As stated by the court in People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill.App.3d 316, 317 N.E.2d 121 (2nd Dist. 1974),

The only authority and power placed in the [Property Tax Appeal] Board by statute is to receive appeals from decisions of Boards of Review, make rules of procedure, conduct hearings and make a decision on the appeal. The only types of appeal provided for in the statute are by 'any taxpayer dissatisfied with the decision of a board of review as such decision pertains to an assessment of his property for taxation purposes or any taxing body that has an interest in the decision of the board of review on an assessment made by any local assessment officer.'

Thompson, 22 Ill.App.3d at 322. The court in Thompson went on to hold that the Property Tax Appeal Board is not authorized, in reviewing an assessment decision of the county board of review, to compel the property in question to be properly platted or described for assessment purposes. Thompson, 22 Ill.App.3d at 321.

In conclusion, based on a review of the evidence contained in the record, the Property Tax Appeal Board finds a reduction in the assessment of the subject property is supported. However, the reduction is limited to the increase in the assessment caused by the application of the equalization factor.

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: August 23, 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.