



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

APPELLANT: Alan S. & Anita C. Vitous
DOCKET NO.: 10-01115.001-R-1
PARCEL NO.: 02-21-226-001

The parties of record before the Property Tax Appeal Board are Alan S. & Anita C. Vitous, the appellants, and the Kendall 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 Kendall County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$25,140
IMPR.: \$93,000
TOTAL: \$118,140**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 96,014 square feet of land area is improved with a two-story single-family dwelling of brick and frame exterior construction containing 3,100 square feet of living area. The dwelling is 17 years old. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and a three-car garage. The property also has an in-ground swimming pool. The property is located in Yorkville, Bristol Township, Kendall County.

The appellants' appeal is based on unequal treatment in the assessment process concerning both the land and improvement assessments of the subject property. The appellants wrote that assessments of nearby properties have been reduced due to reductions in home values in the area, but the subject's assessment has not changed. The appellants seek to have the subject's assessment "brought in line with these nearby homes."

To support the inequity argument, the appellants submitted information on eight comparable properties. Comparable #8 is "next door" to the subject and the remaining seven properties are about one-mile from the subject. The appellants contend much of the subject parcel is in a floodplain. Comparables #1 and #4 are described as golf course lots. The appellants provided no specific lot sizes for comparables #1 through #7; comparable #8

is described as 3.75-acres. The properties have land assessments ranging from \$20,502 to \$36,201. The subject has a land assessment of \$25,140. Based on this evidence, the appellants requested a land assessment reduction to \$20,500.

The parcels are improved with two-story brick and cedar dwellings that range in age from 4 to 16 years old. The dwellings range in size from 3,082 to 4,644 square feet of living area. Features include full basements, one of which is reported to be 95% finished. Each home also has central air conditioning, fireplace(s) and a three-car garage. Comparables #1 and #2 have pools and comparable #8 has an "accessory" building. These improvement assessments range from \$73,817 to \$123,248 or from \$23.95 to \$26.84 per square foot of living area. The subject's improvement assessment is \$109,111 or \$35.20 per square foot of living area. Based on this evidence, the appellants requested a reduction in the subject's improvement assessment to \$80,600 or \$26.00 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$134,251 was disclosed. The board of review presented a memorandum addressing the evidence, a grid analysis of three comparable properties with applicable property record cards that include color photographs and an aerial photograph depicting the location of the subject and three comparables.

As to the appellants' evidence, the board of review contends that comparables #3, #5, #6 and #7 are dissimilar in that they are located in a "tract subdivision and are lesser quality than the subject." Comparable #4 is said to be dissimilar since it only has a two-car garage and the dwelling is all frame construction. The board of review also acknowledged that comparables #1 and #2 have lower improvement assessments on a square-foot basis, but noted that each is 500 square feet larger than the subject.

As part of the submission, the board of review included an aerial photograph of the subject that depicts 1.41-acres of land in a "floodplain" and .63-acres where the dwelling and pool are located outside the floodplain. The board of review stated the assessor "added a \$5,000 premium to the land assessment for the woods." The board of review also stated, "[t]he part of the lot that is located within the flood plain is not being included in the base value."

In further support of the subject's assessment, the board of review presented three comparables located one-mile from the subject; comparables #2 and #3 are located on the same street as appellants' comparables #1 and #2. The board of review's comparable parcels range in size from 45,008 to 61,138 square feet of land area. These properties have land assessments of either \$25,140 or \$36,201. Based on this evidence, the board of review requested confirmation of the subject's land assessment of \$25,140.

As to the improvement assessment, the parcels are improved with two-story brick and frame dwellings that range in age from 12 to 18 years old. The dwellings range in size from 3,045 to 3,399 square feet of living area. Features include unfinished basements, central air conditioning, a fireplace and a garage ranging in size from 619 to 778 square feet of building area. These properties have improvement assessments ranging from \$96,926 to \$105,897 or from \$31.16 to \$32.86 per square foot of living area. The board of review further argued that the subject has both an in-ground pool and an enclosed porch which the comparables do not enjoy; the board of review contended that \$1.35 per square foot is attributed to these two features. If the comparables were adjusted by this same amount, the improvement assessments would range from \$32.69 to \$34.39 per square foot. Therefore, based on the evidence presented by both parties, the board of review proposed to reduce the subject's improvement assessment to \$99,200 or \$32.00 per square foot of living area.

In written rebuttal, the appellants addressed the board of review's evidence and also rejected the proposed improvement assessment reduction. In doing so, the appellants proposed an improvement assessment of \$86,800 or \$28.00 per square foot of living area. The appellants' rebuttal submission was forwarded to the board of review and no further reply has been received.

As to the board of review's evidence, the appellants first noted that the board of review has modified the properties used to support the subject's assessment from those that were presented at the local county board of review level.¹ The appellants contend that the garage for board of review comparable #3 is smaller than the garage of appellants' comparable #4 which the board of review criticized as being dissimilar to the subject. This property presented by the board of review is also an "undesirable corner lot" which is not comparable to the subject's location. Board of review comparable #1 is located alongside a major state highway making it not dissimilar to the subject.

The appellants dispute the board of review's assertion that appellants' comparable #4 is all frame in that there is "brick on the lower level to the left of the window extending over the garage bump-out." In this regard, the appellants contend this property has more brick veneer than does the board of review's comparable #2 which has 10% brick according to the property record card.

¹ "All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will only consider the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review *The Board shall not be limited to the evidence presented to the board of review of the county. A party participating in the hearing before the Property Tax Appeal Board is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the board of review of the county.*" (86 Ill.Admin.Code §1910.50(a)) [Italics in original].

As to the quality of appellants' comparables #3, #5, #6 and #7, the appellants assert these properties are "located in a new, prestigious, and sought-after subdivision" with quality materials and design.

The appellants also dispute the proposition that larger properties have lower assessments on a per-square-foot basis and cited the board of review's submission to support this proposition. The appellants further asserted that the board of review's comparables were "uniquely over assessed compared to other homes in the area."

The appellants argued that only their comparables #1 and #2 have in-ground pools and "a significant amount of brick" to be comparable to the subject. The appellants further raised an issue regarding the reported dwelling sizes of these properties which have increased since 2006 as a consequence of a change in the county's software, but with no additional construction. From this dispute, the appellants reiterate that the subject still has a higher improvement assessment, despite what dwelling size is analyzed.

As to the reported premium added for woods, the appellants contend that the entire wooded area is within the 100 year flood plain and thus, the appellants contend that no \$5,000 premium is warranted. Moreover, the trees are all ash trees which are worthless "and a liability due to inevitable damage from the emerald ash borer." Therefore, the appellants contend there should be no land premium and the subject's land assessment should be reduced to \$20,140.²

After reviewing the record 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 Board further finds a reduction in the subject's improvement assessment is warranted, but no change in the subject's land assessment is warranted.

The appellants contend unequal treatment in the subject's land and improvement assessments as the basis of the appeal. 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.

As to the land assessment evidence, the Property Tax Appeal Board finds that a total of eleven suggested comparable parcels were presented by the parties to support their respective positions. The appellants did not report specific land sizes for seven of

² This proposed land assessment is less than the appellants requested in the original appeal petition.

their comparables and thus, those properties have been given less weight. The appellants did report that comparable #8, a neighbor to the subject, consists of 3.75-acres of land area. Being next to the subject, it appears reasonable to assume that this property would likewise have land in the floodplain. The appellants reported that this much larger parcel had an identical land assessment to the subject of \$25,140. The board of review also presented comparable #1 of 61,138 square feet of land area, which is about 1/3 smaller than the subject, as having a land assessment of \$25,140. Based on this record, the subject's land assessment appears to be equitable and the appellants have failed to establish assessment inequity by clear and convincing evidence.

As to the improvement assessment, the parties submitted a total of eleven suggested comparables. The Board has given less weight to appellants' comparable #8 due to its substantially larger dwelling size of 4,644 square feet and its finished basement. The Board finds the remaining ten comparables submitted by both parties had varying degrees of similarity to the subject in size, style, exterior construction, features and/or age. These comparables had improvement assessments ranging from \$23.95 to \$32.86 per square foot of living area.

The record reveals that the pool feature was present in the subject and appellants' comparables #1 and #2. Due to their similarities in this feature to the subject property, these two comparables received the most weight in the Board's analysis. These comparables had improvement assessments of \$26.61 and \$26.84 per square foot of living area. The subject's improvement assessment of \$35.20 per square foot of living area is above these most similar comparables. The subject dwelling is about 500 square feet smaller than each of these comparable dwellings. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. In light of the foregoing and after considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is not equitable and a reduction in the subject's assessment 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

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: April 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.