



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

APPELLANT: Gary Shanafelt
DOCKET NO.: 10-01314.001-R-1
PARCEL NO.: 10-23-100-008

The parties of record before the Property Tax Appeal Board are Gary Shanafelt, the appellant, and the Marion County Board of Review by Special Assistant State's Attorney Tracy A. Pedersen of Giffin, Winning, Cohen & Bodewes, P.C., in Springfield.

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 **Marion** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$6,320
IMPR.: \$47,310
TOTAL: \$53,630

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story single-family dwelling of frame construction containing 1,806 square feet of living area. The dwelling was constructed in 2002. Features of the home include a partial unfinished basement, central air conditioning and an attached two-car garage of 672 square feet of building area. The subject also has a wood deck. The property has a 5-acre site and is located in Odin, Odin Township, Marion County.

The appellant's appeal is based on assessment equity and includes two briefs where the appellant discussed the evidence presented. The only dispute raised was with the subject's improvement assessment. In part, the appellant argued that his comparable #2 was most similar to the subject and "is assessed higher than the subject." The appellant asserted that each of the comparables "are all equal in similarity to the subject property."

In the Section V grid analysis and in support of the inequity argument, the appellant submitted information on three comparable properties described as one-story dwellings of frame construction that range in size from 1,408 to 1,884 square feet of living area. The dwellings were constructed in 2001 and 2003. The

comparables are located from .6 to 2-miles from the subject property. One of the comparables has a full basement. Each home has central air conditioning and a garage of either 536 or 576 square feet of building area. Comparables #1 and #3 have concrete drives; comparable #1 also has a concrete patio; comparable #2 has both a pole building and a pond; and comparable #3 also has a wood deck. These three comparables have improvement assessments ranging from \$34,790 to \$38,290 or from \$18.94 to \$27.19 per square foot of living area. The subject's improvement assessment is \$47,310 or \$26.20 per square foot of living area.

As part of additional documentation, the appellant presented information on his experience/qualifications in real estate appraisal. The appellant noted the presentation in this appeal was not an appraisal. On a separate page, the appellant set forth the adjustment process he applied for differences in size from the subject, including a \$5 per square foot adjustment for basement size, a \$5 per square foot adjustment for garage size and a \$10 per square foot adjustment for dwelling size. The land adjustment was made by raising the estimated land market value based upon the assessment of the comparable to be equal to that of the subject. Furthermore, on individual sheets, the appellant reported specific adjustments to the three comparables for lot size, dwelling size, exterior construction, basement area, garage size and/or other improvements. The appellant also converted these assessments to estimated market values and arrived at adjusted estimated market values for the three comparables ranging from \$132,080 to \$134,040 or from \$71.15 to \$93.81 per square foot of living area, including land. After removal of the value assigned to the sheds on the subject property, the appellant contends the subject has an estimated market value of \$151,860 or \$84.09 per square foot of living area, including land.

In an additional brief, the appellant contends that the assessing officials are inappropriately assessing two "portable sheds" located on the subject property as real estate. The appellant contends that these two structures are not permanently attached to the ground and therefore are not to be taxed as real estate. In support of these assertions, the appellant included color photographs depicting a white shed resting on 4" x 4" skids. The appellant noted there are no utilities to these buildings. The appellant argued that "no one else in Marion County is being taxed on these 'portable sheds,' only me." The appellant submitted brochures from a Centralia, Illinois retailer of portable buildings and asserted that a majority of the sales are "on a rent-to-own basis." If the buyer fails to make rental payment(s), the retailer "goes out and picks up the shed and removes it." The subject's sheds are being valued at \$9,120 and therefore, the appellant requested a reduction in the subject's improvement assessment of \$3,040 to account for these structures.

Furthermore, the appellant contends that despite the lack of further improvements or additions to the subject property, the

assessing officials have increased the subject's original assessment, since 2003, year after year. The appellant asserted that the original value of the property was \$117,000 and as of 2010 it now has a value of \$160,890 or an increase of 37.5% which is not in line with area properties. The appellant contends that his reduction request would reflect a value of approximately \$134,970 with a home that is 8 years older and a 15.4% increase in value, which he considers to be "very generous."

Based on the foregoing evidence and argument, the appellant requested a reduction in the subject's improvement assessment to \$38,670 or \$21.41 per square foot of living area and a total assessment of \$44,990.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$53,630 was disclosed.

The board of review presented a twelve-page memorandum with evidence in response to the appeal. As to the appellant's three comparable properties, the board of review contends comparables #1 and #3 should be distinguished from the subject property as neither home has a basement like the subject property and neither is located in Odin Township like the subject. Furthermore, the board of review contends that appellant's comparable #3 is only in fair condition (citing to Exhibit E, a property record card, with no photograph or further articulation as to the condition determination).

As to the equity evidence, the board of review provided a grid analysis of four comparable properties (Exhibit G), with board of review comparable #3 being the same property as appellant's comparable #2.¹ These four comparables are located from .04 to 2.9-miles from the subject property and are improved with one-story dwellings of frame or frame and masonry construction that range in size from 1,408 to 1,768 square feet of living area. The dwellings were constructed from 2000 to 2007. Features of the comparables include a full basement, one of which is fully finished, and central air conditioning. Three of the comparables have a garage ranging in size from 495 to 672 square feet of building area. Each comparable also has a patio, porch and/or a wood deck. Comparables #1, #2 and #4 have one or two pole buildings each and comparable #2 has a second detached garage. These properties have improvement assessments ranging from \$38,290 to \$52,900 or from \$27.19 to \$32.92 per square foot of living area. The subject's improvement assessment is \$47,310 or \$26.20 per square foot of living area.

¹ As an alternative, the board of review also provided a grid analysis of these same properties "without other improvements" as Exhibit H by removing the assessment assigned to wood decks, sheds, patios, porches and pole buildings. This analysis reflects improvement assessments for the comparables ranging from \$22.01 to \$23.92 per square foot of living area, excluding other improvements, as compared to the subject's improvement assessment of \$21.57 per square foot of living area, excluding other improvements.

As to the argument regarding the sheds, the board of review contends the subject's buildings are 14 feet by 28 feet and 15 feet by 36 feet, respectively. Moreover, Exhibit W is an affidavit of the Marion County Chief County Assessment Officer Patty Brough averring that it is the assessor's policy to "assess storage sheds as fixtures if they measure 10 feet x 16 feet, or greater." Given their size, the board of review also contends the sheds are not easily removed as use of a "mule" is necessary according to dealers of these sheds. As to the appellant's contention that the subject property is the only one in the county whose sheds are being assessed, the board of review submitted Exhibits X through HH consisting of property record cards depicting the assessment of sheds of varying sizes for 11 properties in Marion County.

To the extent that the appellant raised a market value argument regarding the overall value of the subject property, the increases in the subject's market value over time and the conversion of the assessments of the comparables to estimates of market value, the board of review noted that the sole basis of the appellant's appeal was assessment equity. Citing the rules of the Property Tax Appeal Board, the board of review contends that these arguments related to market value should not be considered.²

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

In written rebuttal, the appellant disputed the assessor's characterization that his comparable #3 is only in fair condition and cited a color photograph of that dwelling which the appellant submitted with his original appeal. The appellant reiterated his contention that this comparable is the same age and construction type as the subject dwelling.

The appellant also reiterated his contention that portable sheds are not real estate and instead are personal property as when the appellant leaves, he will take the sheds with him. The appellant further argues that rather than only 11 properties with assessed sheds, he states "there are hundreds and hundreds [of these sheds] in Marion County." The appellant, however, provided no substantive evidence as to specific properties which have sheds meeting or exceeding the size of 10 feet by 16 feet which are not being assessed by the Marion County assessing officials.

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 assessment is not warranted.

² In the alternative, the board of review provided Exhibit Q consisting of data regarding five sales. The sales occurred between June 2009 and October 2010 for prices ranging from \$94,000 to \$272,500 or from \$72.98 to \$183.04 per square foot of living area, including land. The subject's total assessment reflects a market value of approximately \$160,890 or \$89.09 per square foot of living area, including land.

Assessment of sheds

The parties disagree with respect to the classification and assessment of the sheds, which measure 14 feet by 28 feet and 15 feet by 36 feet, respectively, as real property. The appellant contends these sheds which are resting on skids are personal property and should not be assessed as real estate. The board of review contends that all sheds that measure 10 feet by 16 feet, or greater, are assessed as real estate.

Illinois' system of taxing real property is founded on the Property Tax Code. (35 ILCS 200/1-1 et seq.) Section 1-130 of the Property Tax Code defines real property in part as:

The land itself, with all things contained therein, and also buildings, structures and improvements, and other permanent fixtures thereon, . . . (35 ILCS 200/1-130). [Emphasis added.]³

In light of the foregoing definition, the Property Tax Appeal Board finds the subject sheds can be correctly classified and assessed as real property. In Ayrshire Coal Company v. Property Tax Appeal Board, 19 Ill.App.3d 41 (3rd Dist. 1974), the court addressed the issue of distinguishing between real and personal property. In determining the property classification of heavy machinery and equipment and whether they were annexed to real estate, the court held:

. . . [p]ersons dealing with land and improvements thereon may consider a building thereon as personalty for their purposes, but such treatment as between individuals, does not change essential characteristics of building as realty. Id. at 44-45.

The court emphasized that an examination of the item, not the contractual language or booking practices, should establish the classification of an item. The court in Ayrshire further wrote, "[a] structure has been defined in the broad sense as any construction or piece of work composed of parts joined together in some definite manner." Id. at 45. In addition, the court noted:

A building has been defined as a fabric, Structure, or edifice, such as a house, church, shop, or the like, designed for the habitation of men or animals or For the shelter of property. [Capitalization as shown; citation omitted.] Id. at 45.

³ The Property Tax Appeal Board recognizes that this provision was modified as of January 1, 2011. As this is a 2010 assessment appeal, however, the previous provision prior to P.A. 96-1477 is applicable.

In the case of In re Hutchens, 34 Ill.App.3d 1039 (4th Dist. 1976), the court noted that the trial court held that:

. . . the manner of the placement of the cabin on blocks and a provision of the lease for plumbing connections between the cabin and a septic tank and a well sufficiently attached the cabin to the land to 'become a part of it.' Id. at 1040-1041.

On appeal, the Fourth District Appellate Court held that as far as property taxes are concerned, the finding of the trial court that the cabin was part of the real estate was not contrary to the manifest weight of the evidence.

Moreover, while the appellant asserted that no other portable sheds like the subject were being assessed in Marion County, the board of review presented evidence of eleven properties that have sheds like the subject which are being assessed. The appellant failed to provide any examples in rebuttal of properties where sheds should be assessed based on the reported policy of the assessing officials, but were not being assessed as real estate. As such, the appellant failed to establish evidence in support of a lack of uniformity claim within the jurisdiction.

After considering the evidence and record including the photographs of the subject shed(s), the Board finds the sheds are "building(s)" or "structure(s)" as defined in Section 1-130 of the Property Tax Code (35 ILCS 200/1-130). Thus, based on this record, the Board finds the sheds are real property and may be assessed as such regardless of foundation.⁴ Thus, the Property Tax Appeal Board finds the subject sheds are properly classified as assessable real property and the policy of the assessing officials to assess these structures has been uniformly applied.

Lack of assessment equity

The appellant contends unequal treatment in the subject's improvement assessment as a 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 assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989); 86 Ill.Admin.Code 1910.63(e). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not met this burden.

⁴ The instant case is distinguishable from those cases where the structure is identified as a vehicle or similar portable structure such that it can be classified based on its physical foundation pursuant to the Property Tax Code. See Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711 (2nd Dist. 1996).

The parties submitted a total of six equity comparables to support their respective positions before the Property Tax Appeal Board. With the exception of foundation for appellant's comparables #1 and #3, the Property Tax Appeal Board finds all six comparables were sufficiently similar to the subject in location, size, style, exterior construction, features and/or age for purposes of comparison. These comparables had improvement assessments that ranged from \$34,790 to \$52,900 or from \$18.94 to \$32.92 per square foot of living area. The subject's improvement assessment of \$47,310 or \$26.20 per square foot of living area falls within the range established by these comparables in the record both in terms of overall assessment and on a per-square-foot basis. Alternatively, removing the appellant's comparables #1 and #3 which lack a basement which is enjoyed by the subject property, the subject's improvement assessment of \$26.20 per square foot of living area is below that of the remaining four comparables that range from \$27.19 to \$32.92 per square foot of living area. Based on this record, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement assessment was inequitable and a reduction in the subject's assessment is not justified.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. 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 appellant 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.

Market value arguments

When overvaluation is claimed, the appellant has the burden of proving the value of the property 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, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not make a market value claim in this proceeding as the appellant provided no comparable sales or other market value evidence. The conversion

of assessments to estimated market values by multiplying the assessments by three is nothing more than an equity analysis converted to estimated market values.

In order to demonstrate overvaluation the appellant needed to provide an appraisal or other market data estimating or establishing the subject's market value on or about January 1, 2010 along with the state of the overall real estate market in the subject's area, if that was the basis of the argument. The appellant did not provide this type of evidence to demonstrate the subject's assessment was excessive as of January 1, 2010. Instead, the appellant converted the assessments of three comparables to estimates of market value and further adjusted them to attempt to demonstrate that the subject property was overvalued based upon its assessment.

Furthermore, the Board finds the appellant provided no information to support what lower value should be applied to the subject based on his argument; a mere theory and claim of reduced value by the appellant without more is insufficient evidence of an impact on market value. The Board finds the appellant failed to present any substantive evidence indicating the subject's market value. The Property Tax Appeal Board recognizes the appellant's premise that the subject's value may be affected by various factors, including economic ones, however, without credible market evidence showing the subject's land or total assessment was inequitable or not reflective of fair market value, the appellant has failed to show the subject's property assessment was incorrect. The Board finds the appellant submitted no credible market evidence that would indicate either that subject's land assessment or its total assessment is not reflective of its fair market value.

In conclusion, the Board finds the appellant failed to demonstrate that the subject property was inequitably assessed by clear and convincing evidence or overvalued by a preponderance of the evidence. Therefore, the Board finds the subject's assessment as established by the board of review is correct and no reduction is warranted. In addition, the sheds on the subject property have been uniformly and properly assessed as real estate under the provisions of the Property Tax Code.

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.