



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

APPELLANT: Sarah & Ian Moschenross
DOCKET NO.: 10-03777.001-R-1
PARCEL NO.: 09-205-130-00

The parties of record before the Property Tax Appeal Board are Sarah & Ian Moschenross, the appellants, and the Warren 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 Warren County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$2,530
IMPR.: \$28,000
TOTAL: \$30,530**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling with a half-finished attic. The home is of brick exterior construction and contains 2,025 square feet of living area.¹ The dwelling was constructed in 1910. Features of the home include a full unfinished basement, central air conditioning and a nine-car garage of 2,450 square feet of building area. The property has an approximate 11,360 square foot site and is located in Monmouth, Monmouth Township, Warren County.

The appellants' appeal is based on assessment equity with regard to both the land and improvement assessments. In addition, the appellants further complain that Warren County assessing officials have not done a general reassessment since 1984 in violation of the Property Tax Code (35 ILCS 200/9-225) and instead "only homes being purchased and sold are being reassessed and those homeowners are making up for the losses that the county is taking because others are not paying an updated amount."

As part of their submissions, the appellants included data revealing that the subject's 2009 total assessment was \$29,570. In addition, the subject's 2010 total final assessment after

¹ While the appellants reported a dwelling size of 1,620 square feet, it appears that this calculation excluded the attic area which was reported by the assessing officials.

board of review action was \$40,220. As part of the appeal, the appellants also reported that they purchased the subject property in June 2010 for \$125,700 from an unrelated party after the property had been advertised for three to four months with a Realtor in the Multiple Listing Service.

As to the subject garage amenity, the appellants wrote, "rundown, old brick former business detached, 9 car." In addition, the appellants contend that the subject dwelling is adjacent to a commercial lot, across from run down, empty building and parking lots, and kitty-corner from a house about to fall in on itself. In contrast, the comparables presented are nicer dwellings which are located in nicer neighborhoods, but assessed significantly less than the subject.

In support of their inequity arguments, the appellants completed Section V of the appeal petition with information on three comparable properties located within nine blocks of the subject property. The comparable parcels range in size from 10,349 to 13,750 square feet of land area. The properties have land assessments ranging from \$2,320 to \$3,100 or \$0.22 or \$0.23 per square foot of land area. The subject has a land assessment of \$2,530 or \$0.22 per square foot of land area. Based on this evidence, the appellants requested a land assessment reduction to \$2,000 or \$0.18 per square foot of land area.

The parcels are improved with two-story dwellings of frame or brick exterior construction that range in size from 2,268 to 3,080 square feet of living area.² The dwellings range in age from 105 to 112 years old. Features of the comparables include a full basement, central air conditioning and a garage ranging in size from 360 to 616 square feet of building area. Two of the comparables also have one and two fireplaces, respectively. The comparables have improvement assessments ranging from \$22,020 to \$26,830 or from \$8.71 to \$10.11 per square foot of living area. The subject's improvement assessment is \$37,690 or \$18.61 per square foot of living area. Based on this evidence, the appellants requested a reduction in the subject's improvement assessment to \$28,000 or \$13.83 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 \$40,220 was disclosed. The board of review presented a two-page letter prepared by Janice Hamberg, Clerk of the Warren County Board of Review. As part of the letter, it was written:

This appeal was filed due to a change in assessment policy implemented several years ago for reassessing individual parcels when they sell based on their sale price. This has been common practice in most counties long before Warren County began doing so and

² The board of review reported a correction to the dwelling size of appellants' comparable #2 which has been accepted in the discussion of the evidence.

surrounding counties were polled to determine the formula they use to attempt to be consistent with surrounding jurisdictions. . . . Warren County has been applying township equalization factors to residential properties since the last complete reassessment was implemented in 1984 but those factors were not always adequate to keep pace with market fluctuations which caused the change in procedure.

While acknowledging that the Property Tax Code calls for a quadrennial reassessment of properties "as soon as he or she reasonably can," the Clerk noted that understaffing and underfunding of the office makes a complete review both financially and physically impossible at this time. The Clerk further stated:

Under the current policy those properties that sell for less are reassessed using the same formula as those that sell for more.

As to the various external matters raised by the appellants concerning the subject property, the board of review contends the neighboring properties were in similar use and/or condition at the time the subject property was purchased. "While the two houses next to the subject are eye sores they have been that way for years."

The board of review presented a grid analysis with descriptions and assessment information on four comparable properties located within four blocks of the subject. The board of review explained that comparables #2 and #3 consist of sales of units within a six unit building. The applicable property record cards note renovation in 1999 and conversion to condominiums. These condominium units of 1,524 and 1,710 square feet of living area, respectively, have improvement assessment of \$18,380 and \$27,490 or \$10.75 and \$18.04 per square foot of living area. The four comparables have parcels ranging in size from 846 to 10,890 square feet of land area with land assessments ranging from \$180 to \$2,450 or \$0.21 and \$0.22 per square foot of land area.

Board of review comparables #1 and #4 are improved with two-story dwellings of brick construction that contain 1,862 and 2,795 square feet of living area, respectively. The dwellings were constructed in 1900 and 1925. Features of these two comparables include an unfinished basement, central air conditioning, a fireplace and a garage of 462 or 572 square feet of building area. Comparable #1 also features an in-ground pool. These two properties have improvement assessments of \$41,230 and \$46,310 or \$22.14 and \$16.57 per square foot of living area.

In summary, the Clerk noted that the appellants requested a new assessment based on equity and "[w]hile the appellants have shown that they are not equal to some properties in the area there is no guarantee that even with a complete reassessment they would be any more equitable." Based on this evidence and the appellants'

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

In written rebuttal, the appellants reiterate their contention that the methodology of reassessing only recently sold properties is inherently unfair and not uniform. As a consequence of the current practice, the tax burden inevitably falls disproportionately upon those recently sold properties. "Homes that were purchased a decade or more ago are evidently benefitting from drastically different tax bills." Furthermore, the appellants argue that board of review comparables #2 and #3 as condominium units are dissimilar for comparison purposes to the subject single family residence.

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/is not warranted.

The appellants contend unequal treatment in the subject's improvement assessment 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 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 appellants have met this burden.

The Uniformity Clause of the Illinois Constitution provides that: "Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401, 169 N.E.2d 769 (1960). Taxation must be in proportion to the value of the property being taxed. Apex Motor Fuel, 20 Ill. 2d at 401; Kankakee County Board of Review, 131 Ill.2d at 20, 544 N.E.2d 762, 136 Ill.Dec. 76 (fair cash value is the cornerstone of uniform assessment.) It is unconstitutional for one kind of property within a taxing district to be taxed at a certain proportion of its market value while the same kind of property in the same taxing district is taxed at a substantially higher or lower proportion of its market value. Kankakee County Board of Review, 131 Ill.2d at 20, 544 N.E.2d 762, 136 Ill.Dec. 76; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234, 692 N.E.2d 260, 229 Ill.Dec. 487 (1998). After considering the record evidence and an analysis of the assessment data, the Property Tax Appeal Board finds a reduction is warranted.

The letter from the Clerk of the Warren County Board of Review acknowledged that "Warren County reassesses one property at a

time, basing the new assessed value on the sale price." Section 9-155 of the Property Tax Code provides in part that:

Valuation in general assessment years. On or before June 1 in each general assessment year in all counties with less than 3,000,000 inhabitants. . . the assessor, in person or by deputy, shall actually view and determine as near as practicable the value of each property listed for taxation as of January 1 of that year. . . and assess the property at 33 1/3% of its fair cash value. . . .

35 ILCS 200/9-155. The statements of the Clerk acknowledged that property, including the subject property, were revalued in accordance with a practice to apply a formula to recently purchased or sold properties. Conversely, other property within Warren County, but which did not sell, were not similarly revalued but had their assessments recalculated only by the application of an equalization factor. This selective implementation of reassessment process appears to be in violation of section 9-155 of the Property Tax Code's requirement that the assessor is to determine the value of each property as of January 1 and assess the property at 33 1/3% of its fair cash value.

As noted, the Illinois Constitution's uniformity clause requires not only uniformity in the level of taxation, but also in the basis for achieving the levels. Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 235, 692 N.E.2d 260, 229 Ill.Dec.487 (1998); Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 20, 544 N.E.2d 762, 136 Ill.Dec.76 (1989). The record in this appeal discloses that the assessing officials within Warren County use different methods in valuing property, one being a complete revaluation of the sold or purchased properties, such as was calculated for the subject, and another involving an equalization factor used to adjust assessments for properties which did not sell. This practice appears to be in violation of the uniformity clause.

The appellants disputed both the land and improvement assessments of the subject property as inequitable. The record reveals that all land assessments of the seven suggested comparables were from \$0.21 to \$0.23 per square foot of land area with the subject having a land assessment of \$0.22 per square foot of land area. Thus, the Board finds there is no basis for an inequity contention with regard to the subject's land assessment.

As to the improvement inequity argument, the Board finds the parties submitted a total of seven suggested comparables to support their respective positions. The Board has given no weight to board of review comparables #2 and #3 which are condominium units that are not similar to the subject single-family residence. The Board has also given reduced weight to appellants' comparable #1 and board of review comparable #4 because each of these dwellings is substantially larger than the subject.

The Board finds appellants' comparables #2 and #3 along with board of review comparable #1 were most similar to the subject dwelling in location, design, age, size and some features. These three comparables had improvement assessments that ranged from \$22,020 to \$41,230 or from \$9.18 to \$22.14 per square foot of living area. The subject's improvement assessment of \$37,690 or \$18.61 per square foot of living area is within this range, however, the Board further finds that the subject's higher per-square-foot improvement assessment is not justified when considering that the higher per-square-foot assessment of board of review comparable #1 is a dwelling with a fireplace, an in-ground pool and is a slightly newer dwelling than the subject. 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. In conclusion, this evidence indicates the subject property was being assessed disproportionately in violation of the uniformity clause of the Illinois Constitution.

Based on this record the Board finds the subject property's improvement is being inequitably assessed and a reduction commensurate with the appellants' request is 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.

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: September 20, 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.