



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

APPELLANT: Nancy Segal
DOCKET NO.: 10-04018.001-R-1
PARCEL NO.: 08-201-102-00

The parties of record before the Property Tax Appeal Board are Nancy Segal, the appellant, and the Jo Daviess County Board of Review.

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

LAND: \$14,157
IMPR.: \$59,651
TOTAL: \$73,808

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame construction containing 1,664 square feet of living area. The dwelling was constructed in 1998. Features of the home include a concrete slab foundation and central air conditioning. The property has a .78-acre site in Thunder Bay Unit 1 of the Galena Territory development which is located in Galena, Guilford Township, Jo Daviess County.

The appellant appeared before the Property Tax Appeal Board¹ contending the subject's market value was not accurately reflected in its assessment.² The underlying basis of the argument was due to the subject's location "next to an active quarry."

As further articulated by the appellant during the hearing, the subject property is "next to" an active quarry. The appellant purchased the subject property in March 2003. There is some disagreement as to when the quarry began operations, although some assertions are that it began operating in 1992. There is no

¹ A consolidated hearing was conducted as to Docket Nos. 09-05768.001-R-1 and 10-04018.001-R-1 regarding the subject property.

² While the appellant also indicated "assessment equity" was a basis of this appeal, no assessment data for any of the comparables was provided with the evidence.

dispute the quarry was in existence as of the time the appellant purchased the subject property. At the time of purchase, the appellant believed the quarry was restricted to 5-acres of land area. In 2007 "it was determined that was not the case" and the quarry could expand exponentially. The appellant further contends the quarry has greatly physically expanded "to almost triple in size" and extended its hours of operation so as to be a destructive nuisance to the appellant's enjoyment of the subject property. Without any substantive evidentiary support, the appellant stated the quarry has been cited for various regulatory violations by both State and County officials. In summary, she asserts that the subject property's location should be considered in valuing the property.

Another issue raised by the appellant was what she deemed to be a significant assessment reduction granted to a vacant lot, 9 Witherspoon, located near the subject property. The appellant contends that the appeal of this nearby lot was based purely upon location near a quarry and included submission of a 2005 appraisal report, which was then four years old for that 2009 assessment appeal. The appellant further acknowledges the assessment of this property was reduced so as to reflect its 2006 sale price. The appellant further contends this vacant parcel had a "zero percent" increase in value from 2006 to 2009 whereas the assessment of the subject property for 2009 increased by 50% from assessment year 2006.

The appellant completed the Section V grid analysis with four comparable properties with descriptive and sales data. The comparable parcels range in size from .60 to 1.06-acres of land area. Each of these parcels is improved with either a one-story or a two-story frame dwelling. The homes range in age from 5 to 35 years old and range in size from 1,746 to 2,360 square feet of living area. Features of the comparables include a full finished basement, one of which is also a walkout style, central air conditioning and a fireplace. One comparable has a two-car garage. The comparables sold between March and December 2009 for prices ranging from \$150,000 to \$182,500 or from \$64.83 to \$96.22 per square foot of living area, including land.

Based on this evidence along with her arguments that location near a quarry impacts the value of the subject property, the appellant requested a total assessment estimated market value of \$153,080 or \$92.00 per square foot of living area, including land.

On cross-examination, the appellant was asked what the basis of her assessment reduction was. The quarry has expanded and increased operations along with the fact that "property in general . . . did a huge decline, just the general value of real estate." The appellant further opined that the properties in the Galena Territory were impacted even more so because the development's properties are many second and third homes that "nobody is buying."

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$73,808 was disclosed. The final assessment of the subject property reflects an estimated market value of \$220,718 or \$132.64 per square foot of living area, including land using the 2010 three-year median level of assessments for Jo Daviess County of 33.44%. (86 Ill.Admin.Code §1910.50(c)(1)).

In response to the appeal, the board of review presented a two-page memorandum discussing its evidence and addressing the appellant's arguments and evidence.

As to the assessment reduction that was granted to the vacant lot at 9 Witherspoon, the board of review asserted the 2009 assessment reduction was based on the sale price and the appraisal that was submitted by the taxpayer. (Exhibit F) The board of review asserted that no reduction was given due to the quarry being nearby. At hearing, the representative acknowledged that those property owners did question their location near the quarry, but the board of review considered the comparable sales data within the appraisal report and further recognized that the parcel had been purchased in 2006 which was within three years of 2009 for that 2009 assessment. In those circumstances where a sale is determined to be a legitimate arm's length transaction, the practice of the board of review is to revalue the property to the sale price if it is within three years of the assessment date at issue.

In Exhibit A, the board of review included the subject's property record card, color photographs of the dwelling and the "view out of back of appellant's house" depicting deciduous trees and bushes.

In Exhibit B and in support of the subject's assessment, the board of review presented a grid analysis with descriptions, sales and assessment data on eight comparable improved properties. Comparables #1 through #3 are located in Thunder Bay Unit 1 like the subject property. The remaining comparables are located in either Eagle Ridge Unit 1 or Eagle Ridge Unit 2. Also included is a color parcel map depicting the location of the subject and each of the board of review's comparables.

The comparables consist of 1-story, 1.5-story, part 1-story and part 2-story or 2-story dwellings of frame exterior construction that range in size from 920 to 2,776 square feet of living area. The dwellings were constructed from 1987 to 2000. Features of seven of the comparables include full basements, five of which include finished area. Each home has central air conditioning and one fireplace. There are three comparables with a garage. These comparables sold between August 2007 and June 2010 for prices ranging from \$201,500 to \$365,000 or from \$107.89 to \$260.42 per square foot of living area, including land.

As Exhibit C, the board of review presented data with corrections regarding the appellant's four comparables. The board of review

describes each comparable dwelling as a one-story, one of which includes a loft, and the homes range in size from 1,051 to 1,275 square feet of living area. With the changes to dwelling sizes, the board of review reported these comparables from the appellant sold for prices ranging from \$117.65 to \$173.64 per square foot of living area, including land. In addition, the board of review argued that appellant's comparable #3 is "not a good sale." The board of review contends this dwelling had water damage as stated in the real estate listing (Exhibit D) as there was a frozen pipe and the "lower level has been gutted." Additionally, appellant's comparable #4 was "a bank resale from a foreclosure," included discounts on closing costs and was sold "as is" (Exhibit D). The listing document for comparable #4 depicts it was on the market for 96 days with an original listing price of \$176,500 and then sold for \$150,000.

In Exhibit E, the board of review presented a grid analysis of twelve comparable sales located in the Galena Territory. The comparable parcels range in size from 0.337 to 2.598-acres of land area. The properties are improved with 1.5-story, part two-story and part one-story or two-story dwellings of frame exterior construction. The homes were built between 1983 and 1998 and range in size from 1,176 to 2,150 square feet of living area. Three of the comparables have full or partial basements, each of which includes finished area. Each home has central air conditioning, one or two fireplaces and four comparables have a garage. These properties sold between March 2007 and October 2009 for prices ranging from \$162,000 to \$295,000 or from \$115.17 to \$199.74 per square foot of living area, including land. Based on these sales, the board of review argued that several of the dwellings were 10 to 15 years older than the subject dwelling and nine of these comparables lack basements like the subject, but the subject "is still equitably assessed."

Given the data presented, the board of review opined that there is no market value evidence to support the appellant's assertion that the existence of the quarry has had a negative impact upon values of those area residential properties located in the immediate vicinity of the quarry. Based on this evidence, the board of review requested confirmation of the subject's assessment.

For cross-examination, the appellant inquired regarding the vacant parcel at 9 Witherspoon and the board of review's consideration of the sales in the appraisal of that property. The representative testified that the board of review examined the comparable sales in the appraisal, but used the 2009 assessed values in considering those properties.

In rebuttal, the appellant noted that comparables presented by the board of review are substantially distant from the subject and are thus dissimilar in location.

In reply to the implication by the board of review that the subject's view of the quarry is blocked by trees as depicted in

their photographs, the appellant testified that for six months of the year when the leaves are not on the trees the quarry is plainly visible from the subject property. Moreover, the quarry operations are "audible twelve months of the year." Additionally, when the leaves are on the trees and when the appellant might like to have windows open or sit out in the yard, those are the times that the noise is "really intolerable."

After hearing the testimony and considering 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 not warranted.

The appellant argued in part that the subject's assessment was excessive because of the subject's location near a quarry and due to the presence of this commercial enterprise so close to the subject property, "common sense" dictates that the subject is less valuable than other area properties that are not close to the quarry. In the final analysis the Property Tax Appeal Board has given these arguments little merit because the appellant failed to present any substantive evidence indicating the subject's assessment was incorrect based on market area data.

The record contains no market evidence to support the appellant's claim regarding the purported loss in value, if such loss exists. Besides her theory that location makes a difference in the marketplace, the Board finds the appellant provided no information to support what that lower value should be based on this argument; a mere theory and claim of reduced value by the appellant without more is insufficient evidence of an impact on market value. Thus, the Board finds appellant failed to present any substantive evidence indicating the subject's market value was impacted by its location. The Property Tax Appeal Board recognizes the appellant's premise that the subject's value may be affected due to the aforementioned factors, 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 appellant contends the assessment of the subject property is excessive and not reflective of its market value. 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, 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 evidence in the record does not support a reduction in the subject's assessment.

The parties submitted a total of 24 sales of properties to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to the appellant's

comparables #3 and #4 based on the responsive data provided by the board of review that #3 had water damage in the lower level when it sold and that #4 was sold "as is" with additional closing cost concessions. The appellant did not dispute these assertions with regard to these two sales. In addition, the Board has accepted the data presented by the board of review that appellant erred in reporting the dwelling sizes of her comparables #1 and #2 and that these dwellings actually sold for prices of \$173,64 and \$159.09 per square foot of living area, including land, based upon their corrected dwelling sizes of 1,051 and 1,056 square feet of living area.

The Board has also given less weight to the 12 sales presented in board of review Exhibit E as these properties are located in "Galena Territory" and their specific proximity to the subject was not identified on the record. Therefore, in the absence of similarity in location, the Board has given these comparables reduced weight.

Of the eight comparable sales presented in board of review Exhibit A, the Board has given reduced weight to comparables #2, #3, #5 and #7 due to differences in lot size and/or dwelling size when compared to the subject property. The Board finds the remaining four comparable sales submitted by the board of review in Exhibit A along with appellant's comparables #1 and #2 were most similar to the subject in size, design, exterior construction, location and/or age. Due to their similarities to the subject, these six comparables received the most weight in the Board's analysis. These comparables sold between April 2008 and December 2009 for prices ranging from \$168,000 to \$311,000 or from \$135.25 to \$232.89 per square foot of living area, including land. The subject's assessment reflects a market value of approximately \$220,718 or \$132.64 per square foot of living area, including land, which is within the range established by the most similar comparables in terms of overall value and below the most similar comparables on a per-square-foot basis. After considering the most comparable sales on this record, the Board finds the appellant did not demonstrate the subject property's assessment to be excessive in relation to its market value and a reduction in the subject's assessment is not warranted on this record.

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.