



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

APPELLANT: Stephen & Deborah Kraus
DOCKET NO.: 11-01633.001-R-1
PARCEL NO.: 09-13-106-043

The parties of record before the Property Tax Appeal Board are Stephen & Deborah Kraus, the appellants, and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$104,000
IMPR: \$165,390
TOTAL: \$269,390**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a part two-story and part one-story dwelling of frame and masonry construction containing 3,386 square feet of living area. The dwelling was constructed in 1991 and had a small addition that was built in 2003. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and a two-car garage of 598 square feet. The property has a 9,993 square foot site and is located in Hinsdale, Downers Grove Township, DuPage County.

The appellants' appeal is based on overvaluation.¹ In support of this argument, the appellants submitted information on three comparable sales located in close proximity to the subject. One of the comparables has the same neighborhood code as the subject property and is located on the subject's street. These comparables are described as part two-story and part one-story dwellings of frame or frame and masonry construction that range in size from 3,013 to 3,203 square feet of living area. The dwellings were constructed in 1990 or 1994. Two of the

¹ In Section 2d of the Residential Appeal petition, the appellants marked both comparable sales and assessment equity as the bases of this appeal and provided both sales and assessment data in the Section V grid analysis. However, upon receipt of the board of review's response, the appellants in rebuttal asserted that the only basis of their appeal was market value based upon comparable sales.

comparables have a partial basement and one comparable has a full finished basement. Each home has central air conditioning and the appellants were unsure if the homes featured a fireplace. The comparables also have a garage ranging in size from 505 to 540 square feet of building area. The comparables have sites ranging in size from 10,095 to 11,125 square feet of land area. These comparables sold from March to September 2011 for prices ranging from \$610,000 to \$750,000 or from \$202.46 to \$246.95 per square foot of living area, including land.

Based on this evidence, the appellants requested a reduction in the subject's total assessment to \$254,150 which would reflect a market value of approximately \$762,450 or \$225.18 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$275,420 was disclosed. The subject's assessment reflects a market value of \$830,830 or \$245.37 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

The board of review presented a memorandum with information gathered by the township assessor. As to comparables #1 and #2, the assessor reported each of these properties had assessment reductions in 2011 based on decision of the board of review due to recent sales of the properties. Moreover, appellants' comparable #2 sold in April 2011 for \$610,000, but the assessor has an appraisal for this home as of September 2011 a market value opinion of \$660,000.

In support of the subject's estimated market value, the assessor provided three comparable sales, where comparable #1 was the same property presented by the appellants as their comparable #1. Comparable #1 has the same neighborhood code as the subject property. The assessor also included a map depicting the location of both parties' comparables; the assessor's comparable #3 is most distant from the subject property. The three sale comparables are improved with part two-story and part one-story dwellings of masonry or frame and masonry construction that range in size from 3,037 to 3,177 square feet of living area. The dwellings were constructed from 1989 to 1996. Features of the comparables include a full or partial unfinished basement and a garage ranging in size from 504 to 758 square feet of building area. The comparables have sites ranging in size from 10,095 to 17,815 square feet of land area. The limited descriptive detail provided in the spreadsheet did not present any other relevant data concerning amenities of these comparables. The properties sold from October 2009 to March 2011 for prices ranging from \$750,000 to \$885,000 or from \$247 to \$280 per square foot of living area, including land, rounded.

The assessor also presented the assessments for these three properties in addition to three other properties.

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

In written rebuttal and as noted in Footnote 1, the appellants contend this appeal challenges the market value of the subject property, "not comparable assessed value." In light of the assessor's comparable sales data and the appellants' sales, the appellants contend that their proposed market value is "more consistent with recent sales values" and does not give much weight to the assessor's two dated sales from late 2009. As a final matter, the appellants acknowledged that the subject's assessment is consistent with other comparables presented by the assessor, but the arm's length sales support a change in the subject's estimated market value.

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 warranted.

The appellants contend the market value of the subject property is not accurately reflected in its assessed valuation. 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); 86 Ill.Admin.Code §1910.63(e). 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 Illinois Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The Court in Apex Motor Fuel further stated:

the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A

practical uniformity, rather than an absolute one, is the test.[citation.] Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the Supreme Court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21.

The parties submitted five comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given less weight to the assessor's comparables #2 and #3 as these sales occurred least proximate to the assessment date at issue of January 1, 2011. The Board finds the appellants' comparables along with board of review comparable #1, which was also presented by the appellants, are the three most similar comparables to the subject in location, size, style, exterior construction, features, age and/or land area and these properties also sold most proximate in time to the assessment date at issue. Due to the similarities to the subject, these comparables received the most weight in the Board's analysis. The comparables sold from March to September 2011 for prices ranging from \$610,000 to \$750,000 or from \$202.46 to \$246.95 per square foot of living area, including land. The subject's assessment reflects a market value of \$830,830 or \$245.37 per square foot of living area, including land, which is within the range established by the best comparable sales in this record in terms of overall value which is not justified when giving due consideration to the fact that the subject dwelling is slightly larger than each of these three most similar comparables. 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.

Based on this record, the Board finds the appellants did demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction in the subject's assessment is justified.

The appellants also marked unequal treatment in the subject's assessment as a basis of the appeal, although they denounced this basis in their rebuttal filing. 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). After an analysis of the assessment data and considering the reduction in assessment for overvaluation, the Board finds that the subject property is equitably assessed and no further 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: November 22, 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.