



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

APPELLANT: Eugene Orchowski
DOCKET NO.: 11-02481.001-R-1
PARCEL NO.: 07-26-103-007

The parties of record before the Property Tax Appeal Board are Eugene Orchowski, the appellant(s); and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$35,430
IMPR: \$128,350
TOTAL: \$163,780

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single-family dwelling of frame construction containing 3,539 square feet of living area. The dwelling was constructed in 1989. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and a two-car garage of 420 square feet of building area. The property has a 10,050 square foot site and is located in Naperville, Naperville Township, DuPage County.

The appellant's appeal is based on assessment equity challenging the subject's improvement assessment. There was no dispute raised concerning the land assessment.

For the inequity argument, the appellant provided three comparable properties in the Section V grid analysis. The comparables are located within three blocks of the subject property and two properties are in the Westwind neighborhood like the subject. These comparables are described as two-story dwellings of frame or frame and masonry construction that range in size from 3,146 to 3,514 square feet of living area. The

dwellings were 22 or 25 years old. Features of the comparables include a basement ranging in size from 1,088 to 1,847 square feet of building area. It was unknown whether there was any finished area in the basement(s). Each home has central air conditioning, a fireplace and a garage ranging in size from 440 to 630 square feet of building area. These comparables have improvement assessments ranging from \$116,130 to \$136,910 or from \$36.80 to \$38.96 per square foot of living area. The subject's improvement assessment is \$128,350 or \$36.27 per square foot of living area.

While not set forth as a basis of the appeal, the appellant also reported the sales data for these three comparable properties which sold between July 2008 and November 2010 for prices ranging from \$435,000 to \$475,000 or from \$131.54 to \$138.27 per square foot of living area, including land. The subject's total assessment of \$163,780 reflects a market value of approximately \$491,340 or \$138.84 per square foot of living area, including land.

The appeal also includes a letter from the appellant addressed to the DuPage County Board of Review with an Addendum outlining data on 18 additional properties of 3,000 square feet or more within the subject's neighborhood. In pertinent part, the letter states, "We have been told at the Naperville Township office that examples of sales for a three year period (2010, 2009, 2008) are needed and, a primary consideration in the assessment is living space area (sq ft)." The Addendum identifies a street address, subdivision/neighborhood, parcel number, dwelling size, total 2011 assessment, the estimated market value based upon the assessment, the sale price and sale date with a final column reporting "% total assessed value over/under." Eleven of the properties are in the subject's neighborhood of Westwind. The dwellings range in size from 2,992 to 3,935 square feet of living area. The total assessments for 2011 range from \$140,670 to \$182,170 and next, multiplying these total assessments by 3 results in a range of estimated market values based upon the assessments which range from \$422,010 to \$546,510. These properties sold between May 2008 and November 2010 for sale prices ranging from \$339,000 to \$544,000 resulting in differences between the 2011 estimated market value and the most recent sale price ranging from -7.10% to 19.67%.

Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$114,570 or \$32.37 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 \$163,780 was disclosed. The board of review submitted its Addendum to Board of Review Notes on Appeal along with Exhibit #1 consisting of data gathered by the Naperville Township Assessor's Office.

As to the appellant's comparables in the grid analysis, the assessor noted that both comparables #2 and #3 were smaller dwellings than the subject home and comparable #2 lacks a partial masonry exterior. As to the sales prices of these comparables when compared to the subject's estimated market value based on its assessment, the assessor noted the subject was only slightly above the range of these three comparable sales on a per-square-foot basis. Moreover, the subject's improvement assessment of \$36.27 per square foot of living area is slightly below the three comparables presented on a per-square-foot basis.

As page 7 of Exhibit #1, the township assessor presented descriptions and assessment information on three comparable for purposes of equity. The comparables are improved with two-story dwellings of frame and masonry construction that range in size from 3,424 to 3,578 square feet of living area. The dwellings were constructed in 1989 or 1991. Each has the same neighborhood code assigned by the assessor as the subject property. Features of the comparables include a basement, central air conditioning, a fireplace and a two-car or a three-car garage. These properties have improvement assessments ranging from \$125,270 to \$133,170 or from \$36.16 to \$37.74 per square foot of living area.

The township assessor also provided a two-page grid analysis of comparable sales. As the appellant's appeal was based upon lack of assessment uniformity, this data will not be further examined in this decision.

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

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.

As an initial matter concerning the appellant's letter with Addendum document that outlined limited information on 18 additional properties, the Property Tax Appeal Board will not further consider this submission. The Property Tax Code states in pertinent part:

Each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board.

(35 ILCS 200/16-180). In addition, it should be noted that while a small number of properties can be used to establish lack of uniformity, with the raw sales data provided, the appellant has not shown the comparables selected were similar in age, size, design, or other characteristics to the subject property. As set forth in his Addendum, there is no descriptive data of these 18 properties beyond dwelling size. Thus, as cited in Peacock v. Illinois Property Tax Appeal Board, 339 Ill.App.3d 1060 (4th Dist. 2003), such a limited study of handpicked comparables without other evidence of similarity to the subject is not sufficient. At most, the appellant's data shows that instances exist in which particular properties are undervalued, some more so than others, and, in other instances, some properties are overvalued. The law does not require "absolute equality" in taxation. Schreiber v. County of Cook, 388 Ill. 297 (1944)("Perfect equality and uniformity of taxation as regards individuals or corporations or different classes of property subject to taxation can hardly be visualized. Absolute equality is impracticable in taxation and is not required by the equal protection clause of the constitution. Inequalities that result occasionally and incidentally in the application of a system that is not arbitrary in its classification, and not applied in a hostile and discriminatory manner, are not sufficient to defeat the tax"). In conclusion, as this appeal was based upon lack of assessment uniformity, the Board gave no weight to the appellant's sales evidence and analysis of percentage differences between those sales and 2011 estimated market values based upon the assessments of those properties.

For this appeal, the appellant contends unequal treatment in the subject's improvement assessment as the only 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.

The parties submitted a total of six equity comparables to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparable #3 as this dwelling is somewhat smaller than the subject dwelling. The Board finds the remaining five comparables presented by both parties were the most similar to the subject in location, size, style, exterior construction, features and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$125,270 to \$136,910 or from \$36.16 to \$38.96 per square foot of living area. The subject's improvement assessment of \$128,350 or \$36.27 per square foot of living area falls within the range established by the best comparables in this record. 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.

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.

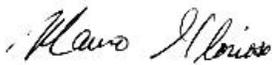


Chairman



Member

Member



Member



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 18, 2014



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.