



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

APPELLANT: Judy Borgsmiller/Bost, Trustee  
DOCKET NO.: 11-05608.001-R-1  
PARCEL NO.: 14-05-351-014

The parties of record before the Property Tax Appeal Board are Judy Borgsmiller/Bost, Trustee, the appellant, and the Jackson 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 **Jackson** County Board of Review is warranted. The correct assessed valuation of the property is:

**F/LAND: \$150  
LAND: \$2,894  
IMPR.: \$37,106  
TOTAL: \$40,150**

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Jackson County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject property is improved with a two-story single family dwelling with approximately 5,166 square feet of living area. The dwelling is approximately 48 years old. Features of the home include a basement, central air conditioning, one fireplace, an indoor swimming pool and a two-car carport. The property also has two out-buildings. The subject property has a

14.7 acre site and is located in Murphysboro, Murphysboro Township, Jackson County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by G. Larry Havens estimating the subject property had a market value of \$102,700 as of May 4, 2012.

The appellant asserted the home was constructed in 1965 and has not been updated. She testified the home needs a new roof, needs electrical and the basement leaks. She stated the home is in disrepair, not marketable and is vacant.

The appellant called as her witness real estate appraiser G. Larry Havens. Havens identified Appellant's Exhibit #1 as the appraisal of the subject property that he prepared. Havens has been appraising property in the Jackson County area for approximately 48 years.

The appraiser described the subject property and testified that there are quite of bit of repairs that are needed. Havens testified there are leaks in the ceiling, many rooms have no floor covering, there are problems with the furnace room equipment and the swimming pool does not function.

In estimating the market value of the subject property the appraiser considered the three approaches to value but developed the cost approach to value and the sales comparison approach to value. Havens gave the subject an effective age of 45 years due to condition. The property rights appraised were the fee simple interest and the appraiser testified that he valued the subject property as being unencumbered. Mr. Havens testified he calculated the subject as having 5,028 square feet of living area using external measurements, which included the pool area of approximately of approximately 1,500 square feet.

In estimating the value under the cost approach the appellant's appraiser estimated a land value of \$0. Havens estimated the cost new of the dwelling to be \$367,136, which was based on actual costs for the Southern Illinois region sourced from local contractors and building material suppliers. From this the appraiser deducted \$183,568 for physical depreciation, \$55,070 for functional obsolescence and \$36,713 for external obsolescence to arrive at a depreciated cost of the improvements of \$91,785. He testified the external obsolescence was attributed to the subject's location and due to the land being

in a forestry stewardship management plan. He asserted the plan has a lot of restrictions and the owner can't sell the land for a certain length of time. The appraiser further testified the owner has to maintain the forest in a good condition, which is an expense. The appellant's appraiser then added \$5,000 for a metal outbuilding and arrived at an estimated value under the cost approach of \$96,785.

In the report Havens asserted that the subject land was valued at \$0 due to the government "Forestry Stewardship Management Plan" which almost completely stops any sale of the land. The appraiser included a copy of the forestry stewardship management plan in the addenda of the report.

The appellant's appraiser used three comparables sales in developing the sales comparison approach. He testified that each home was occupied. The comparables were located from .19 to 4.41 miles from the subject property. These properties were improved with two, two-story dwellings and a ranch style home that ranged in size from 1,968 to 3,669 square feet of living area. The comparables ranged in age from 34 to 62 years old and were described as being in average condition whereas the subject was described as being in poor condition. Two comparables had basements, each comparable had central air conditioning, one comparable had two fireplaces and each comparable had a two-car garage. None of the comparables had an indoor swimming pool. These properties had sites ranging in size from 1.24 to 10 acres. The comparables sold from February 2012 to April 2012 for prices ranging from \$103,800 to \$167,000 or from \$39.52 to \$84.86 per square foot of living area, including land. Even though each comparable had a smaller site than the subject, the appraiser made negative land adjustments ranging from \$5,000 to \$20,000. The appraiser also made adjustments to the comparables for style, even though two were described as being the "same" style as the subject. The appraiser also made adjustments to the comparables for age, condition and different features. The adjusted prices ranged from \$85,912 to \$115,720. Based on these sales the appraiser estimated the subject property had an indicated value under the sales comparison approach of \$102,700.

The appraiser testified he did a drive by of the comparable sales. He also explained the adjustments to the comparable sales were based on his professional opinion.

The appraiser gave most weight to the sales comparison approach and estimated the subject property had a market value of \$102,700 as of May 4, 2012. The appraiser indicated this would

be the value as of 2012 and did not offer an opinion of value as of January 1, 2011.

Under cross-examination the board of review questioned the appraiser about his statement on page 10 of the appraisal that if the land is sold, the entire money paid must be returned to the government. The appraiser thought this was a correct statement. Havens was also questioned about the land being valued at \$0 due to the forestry management plan. He agreed he assigned no value to 14.7 acres of land. The appraiser testified that the entire \$102,700 was the value assigned to improvement, which equates to \$20.43 per square foot of living area.

The appraiser was also questioned about the cost sharing aspects of the forestry management plan. He understood that if there are costs that are associated with the plan with a portion being shared by the government, if the landowner pulls out of the plan before the end of the term, it is those cost that were shared by the government that need to be repaid. He also agreed that if a person sells land that is subject to a forestry management plan, you can transfer the forestry management plan to the new owner without a penalty.

The appraiser was also questioned whether or not he knew if his comparable sale #3 was vacant at the time of sale, which he did not know.

The appraiser also testified the value conclusion under the cost approach did not include any value attributed to the land, however, the value under the sales comparison approach included value attributed to the land. The appraiser explained the negative adjustments for land size in the sales comparison approach was due to the forestry management program the subject was enrolled in.

The appellant testified the property was enrolled in the forest preservation program due to tax savings. She also argued the pool area was not livable space.

The appellant was questioned about whether the management actives associated with the forestry management plan set forth on page 47 of the appraisal were carried out. She could not answer the question.

The appellant requested the subject's total assessment be reduced to \$34,233.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$55,000. The subject property had a farmland assessment of \$150, a homesite assessment of \$2,894 and a building assessment of \$51,956. The subject's building and homesite assessment totaling \$54,850 reflects a market value of \$165,460 or \$32.03 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Jackson County of 33.15% as determined by the Illinois Department of Revenue.

The first witness called on behalf of the board of review was Maureen Berkowitz, Jackson County Supervisor of Assessments, a position she has held for 12 years. Berkowitz has the Certified Illinois Assessing Official (CIAO) designation. She testified she has been exposed with forestry management plans similar to the one involving the subject property. She testified property under such a plan can be freely sold. She further testified that she was not aware of any instances where the sale of a property covered by a forestry management plan would be required to have all the proceeds turned over to the government. She was of the opinion that land like this would sell for approximately \$5,000 per acre. She also testified that a 2011 study showed the median price of land sales in Murphysboro was \$2,279 per acre.

Under cross-examination Berkowitz testified that they have approximately 9 acres assessed at \$150 because of the preferential forestry management plan assessment. The remaining 5 acres are valued at a full value of \$8,682 (the assessed value was \$2,894). She explained that the forestry management plan is a preferential assessment for valuing land for tax purposes but does not restrict a person in selling the land.

In support of its contention of the correct assessment the board of review submitted an appraisal estimating the subject property had a market value of \$165,000 as of January 1, 2011. The appraisal was prepared by Robert Daun, certified general real estate appraiser, of Tri-State Appraisals. Daun was called as the next witness on behalf of the board of review.

Daun testified he visited the property and measured the home. Daun described the subject dwelling as containing 5,166 square feet of living area and being in fair to poor condition. The pool area was included in the gross living area because it was heated. Daun testified that he estimated the size of the

subject using laser measurements around the exterior foundation of the subject dwelling.

Within the report the appraiser asserted that the subject property was not livable based on typical market standards. He stated the floor coverings, sheetrock, doors, door frames, window frames, ceilings, roof, deck and basement leakage are just a few areas that need repaired. He further noted the indoor pool exists but is not operational and was not given any economic contribution to the overall value as it is currently more of a liability than an asset. Daun also noted in the report that the amount of deferred maintenance is a major cause of the large adjustments in the market grid analysis.

The witness testified the subject property was appraised as the fee simple unencumbered interest and made no consideration for the forestry management plan. Daun testified that he had 14 sales that ranged in size from 2.5 to 17 acres with prices ranging from \$3,200 to in excess of \$10,000 per acre. He was of the opinion the market was telling him the subject's land was worth approximately \$5,000 per acre. Daun testified that he did not develop the cost approach but in the cost approach section of the report he asserted that the range of value for similar sized tracts of land within Jackson County was from \$4,000 to \$7,000 per acre with an estimated land value for the subject of \$5,000 per acre.

In estimating the market value of the subject property Daun developed the sales comparison approach to value using four comparable sales. The appraiser was of the opinion these sales were the most comparable based on the amount of square footage, age and acreage. The comparables were described as traditional two-story dwellings that ranged in size from 3,305 to 5,792 square feet of living area. The dwellings ranged in age from 36 to 49 years old and were described as being in good or average condition. Each comparable had a basement that was either 50% or 100% finished. Each of the comparables also had central air conditioning and a fireplace. Three comparables were described as having garages. Comparables #1, #2 and #3 also had swimming pools. Comparable sale #1 also had a pool house and comparable #3 also had a cabana. These comparables had sites ranging in size from 1.0 to 5.33 acres and were located from 1.56 to 11.11 miles from the subject property. The sales occurred from January 2011 to August 2011 for prices ranging from \$150,000 to \$265,000 or from \$40.57 to \$53.59 per square foot of living area, including land. The appraiser made adjustments to the comparables for land area, quality of construction, condition

and differing features to arrive at adjusted prices ranging from \$101,534 to \$192,081. Using these sales the appraiser estimated the subject property had a market value of \$165,000 as of January 1, 2011.

### Conclusion of Law

The appellant contends 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. 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 board of review met this burden of proof, nevertheless, a reduction in the subject's assessment is warranted.

The Board finds of the two appraisals submitted by the parties, the appraisal presented by the board of review and the testimony of the board of review's appraiser, Robert Daun, was the most credible. Daun explained that he valued the fee simple unencumbered interest of the property and gave no consideration to the forestry stewardship management plan. The appellant's appraiser, G. Larry Havens, testified he valued the fee simple unencumbered estate, however, he did consider the forestry stewardship management plan. In actuality, Havens valued the subject property as being encumbered. In the cost approach Havens assigned no land value based upon his understanding that the forestry management plan interfered with the ability of a person to sell the property because all proceeds would need to be given to the government. The Board finds there was no basis for this conclusion. A review of the copy of the forestry stewardship management plan in the addenda of the appellant's appraisal did not include a provision that the proceeds from the sale of the land in the program would need to be given to the government. Additionally, Maureen Berkowitz, the Jackson County Supervisor of Assessments, explained that the forestry management plan provides for a preferential assessment but did not interfere with an owner's ability to sell a property covered by the program. Even Havens seemed to backtrack from his understanding of the operation of the plan by conceding under cross-examination that if there are costs that are associated with the plan with a portion being shared by the government, if the landowner pulls out of the plan before the end, it is the costs sharing by the government that needs to be repaid. He also agreed that if a person sells land that is subject to a

forestry management plan, you can transfer the forestry management plan to the new owner without a penalty. Based on this record the Board finds that Havens failure to include a land value component under the cost approach and making negative adjustments to the comparables sales for land under the sales comparison approach were errors resulting in a conclusion of value that was not credible.

As a second consideration for giving the appraisal prepared by Daun more weight, he valued the subject property as of January 1, 2011, the assessment date at issue. Conversely, Havens valued the subject property as of May 4, 2012, and would not provide any testimony that this value estimate would be reflective of the subject's market value as of January 1, 2011. Since Havens did not provide an estimate of value as of the January 1, 2011 assessment date his opinion can be given little weight.

The Board finds that Daun was a credible witness. He provided testimony that he physically inspected the subject property, measured the exterior of the home to calculate his estimate of size and selected comparables that were similar to the subject in size, style and with acreage. He further acknowledged that the subject dwelling was in poor to fair condition and made adjustments to the comparables sales accordingly. Based on this record the Board finds the subject property had a market value of \$165,000 as of January 1, 2011.

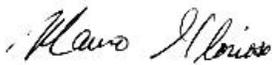
The Board finds, however, Daun's market value estimate included the 9 acres enrolled in the forestry stewardship management program. The Board finds both Berkowitz and Daun provided testimony that the subject land had a value of approximately \$5,000 per acre. Based on this testimony the Board finds that \$45,000 needs to be deducted from Daun's estimate of value to account for the acreage in the forestry management that has the preferential assessment of \$150. After making this deduction from the total estimated value results in \$120,000 as being attributed to the subject dwelling and the acreage attributed to the homesite. Based these calculations the Board finds a reduction in the assessment is appropriate.

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.

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Chairman



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Member



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Member

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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: May 22, 2015



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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.