FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Edwin & Malgorzata Dlugokecki
DOCKET NO.: 12-02849.001-R-1
PARCEL NO.: 19-11-353-005

The parties of record before the Property Tax Appeal Board are Edwin & Malgorzata Dlugokecki, the appellants, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$23,906
IMPR.:	$46,926
TOTAL:	$70,832

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the McHenry County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2012 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 consists of a two-story single-family dwelling of frame construction with approximately 2,278 square feet of living area. The dwelling was constructed in 2002. Features of the home include a partial unfinished basement, central air conditioning and an attached two-car garage. The

property has a .251-acre site and is located in Cary, Algonquin Township, McHenry County.

The appellants appeared before the Property Tax Appeal Board contending both overvaluation and lack of assessment uniformity as the bases of the appeal. No challenge was made to the subject's land assessment, but the appellants requested a reduction in the subject's improvement assessment to $42,479 or $18.65 per square foot of living area. The reduced total assessment request of $66,385 would reflect a market value of approximately $199,155 or $87.43 per square foot of living area, including land.

In support of an improvement assessment reduction, the appellants submitted information on comparable sales as reflected in two grid analyses with eight comparables which also include assessment data along with individual Multiple Listing Service data sheets for six more properties, three printouts from websites reflecting estimated market values for the subject property,[1] and an appraisal of the subject property with an opinion of value as of September 13, 2012. As to the appraisal, the appellants did not present the appraiser at the hearing for purposes of testimony and/or to be cross-examined with regard to the chosen comparable sales and/or to the adjustments made in arriving at a final opinion of market value of the subject property. At hearing, the appellants did not mention the appraisal report. The appraisal depicts a market value for the subject property as of September 13, 2012 of $207,000 or $90.87 per square foot of living area, including land. The appraiser performed both the cost and sales comparison approaches to value in arriving at this final value opinion. In addition, the appellants presented a grid analysis in Section V of the Residential Appeal petition of four equity comparables with sales that occurred in 2002.[2]

At the hearing in this matter, the appellants focused primarily on the assessment inequity argument. Furthermore, as an additional concern regarding the assessment, the appellants argued that the comparable properties identified in their evidence were originally purchased for higher prices than the subject property, but in 2012 these comparables have lower

[1] The website printouts were from Zillow.com, Realtor.com and Trulia.com with estimated market values for the subject property from $180,000 to $204,525.
[2] Where these sales occurred ten years prior to the assessment date that is at issue of January 1, 2012, the Property Tax Appeal Board will not discuss these sales as due to the passage of time, these sales are unlikely to be indicative of the subject's market value as of the assessment date.

assessments than the subject property despite the differences in original purchase prices. To the appellants this means that they are being required to pay higher taxes than properties that sold for more than their home and that discrepancy has continued to the present day resulting in an unfair assessment.

To support this argument, the appellants presented a three-page spreadsheet with an analysis of original sale prices, 2013 assessments, 2014 assessments and depicting the percentage increases or decreases in the assessments from 2013 to 2014 along with indications of whether property tax appeals were filed or were not filed. This exhibit was marked as Appellants' Exhibit #1 without objection. As part of the argument, the appellants acknowledged that market values move upward and downward over time, but the issue to the appellants is that the subject's assessment is higher than other homes which were purchased for more than the subject.

Also as part of their appeal, the appellants reported the subject property was purchased (at an unknown date presumably in 2001) for $219,821 or $96.50 per square foot of living area, including land. The appellants further testified that the only work they have done to change the subject property since the date of purchase was landscaping. In the Section V grid analysis of the Residential Appeal petition, the appellants reported the 2002 purchase prices of their four equity comparables ranged from $223,740 to $260,108 or from $104.45 to $120.07 per square foot of living area, including land. These comparable frame homes were each 10 years old and range in size from 1,957 to 2,278 square feet of living area. Each home has central air conditioning and a two-car garage. The comparables have improvement assessment ranging from $37,125 to $43,970 or from $18.64 to $19.30 per square foot of living area.

Based on the foregoing evidence and argument, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $70,832. The subject's assessment reflects a market value of $217,677 or $95.56 per square foot of living area, land included, when using the 2012 three year average median level of assessment for McHenry County of 32.54% as determined by the Illinois Department of Revenue. The subject property has an improvement assessment of $46,926 or $20.60 per square foot of living area. Appearing at the hearing on behalf of the board of review was Mark Ruda, chairman of the board of review.

At the hearing as part of its opening statement, Ruda indicated that the board of review reduced the subject's assessment based on the appraisal of the subject property, but did not reduce the assessment directly to the appraised value opinion as the county was making time adjustments through 2014 and imputed an estimated a market value to the subject of $212,517 at the statutory level of assessment of 33.33%.

In support of its contention of the correct assessment, the board of review submitted information on a spreadsheet which reiterated the appellants' four comparables presented in the Section V grid analysis and presented three new comparables, two with sales data. The comparables consist of two-story dwellings that were each 10 years old. The homes range in size from 2,190 to 2,279 square feet of living area and feature central air conditioning and a full or partial basement, one of which is finished. Each home has a garage of either 439 or 450 square feet of building area. These comparables have improvement assessments ranging from $53,449 to $54,386 or from $23.45 to $24.52 per square foot of living area. Comparables #1 and #3 sold in June 2010 and May 2011 for prices of $245,000 and $246,000 or for $111.87 and $107.94 per square foot of living area, including land. At the hearing, Ruda noted that appellants' comparable #1 and board of review comparables #2 and #3 were each Geneva model homes like the subject in the subject's subdivision with improvement assessments ranging from $19.30 to $23.87 per square foot of living area whereas the subject has an improvement assessment of $20.60 per square foot of living area. Given this data, Ruda argued that the subject property was equitably assessed.

At the hearing, the Ruda called Tonya Vitous of the Algonquin Township Assessor's Office as a witness to address data in the appellants' appraisal. In response to question, she testified that the subject's subdivision of Cambria consists of 289 single-family dwellings as compared to the nearby Cimarron subdivision which was not quite as large as Cambria, but was very close in proximity. Cambria was 13 years newer than Cimarron, but each was a model home, tract subdivision according to the witness. Vitous was also of the opinion that Cambria was a bit better in quality than Cimarron and the only other major difference between the two subdivisions was year-built. For assessing purposes, homes within Cimarron are not within the neighborhood of Cambria. The witness was also asked about the Special Services Area (SSA) in Cambria and it was Vitous' opinion that the majority of the residents have paid off the

SSA. Vitous would not dispute the use of comparable properties outside of the Cambria subdivision for purposes of an appeal. Vitous did opine that the lack of age adjustments in the appellants' appraisal report regarding comparables that were twice as old as the subject dwelling "would concern her."

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

On cross-examination, the appellants raised the question of assessment equity when the comparable homes were originally purchased for higher prices than the subject dwelling. Chairman Ruda answered the question noting that on an equity basis, the subject Geneva model appears to be within the range of the three Geneva model comparables presented by both parties. With regard to overall market value, Ruda noted that the model was less critical and the comparison would focus on two-story dwellings that were otherwise similar to the subject and in this regard, the board of review provided comparable #3 which sold in May 2011 for $246,000 which is higher than the subject's estimated market value based on its assessment.

In rebuttal, the appellants testified that comparable listings #4 and #5 in the appraisal report subsequently sold in May 2013 and December 2012, respectively for prices of $188,000 and $170,000 or for $85.84 and $85.95 per square foot of living area, including land. Furthermore, the appellants contended that the board of review comparables had higher improvement assessments than the subject because no appeal of the assessment was pursued by those property owners (see Appellants' Exhibit 1, comparables #13, #14 and #15 where only comparable #13 was noted as not having been appealed; no information was provided as to #14; and #15 reportedly was appealed in 2012 resulting in a total assessment for 2013 that was greater than the subject's 2013 total assessment).

Conclusion of Law

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). In addition, 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. 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 did not meet either burden of proof and a reduction in the subject's assessment is not warranted.

When an appeal is based on assessment inequity, the taxpayer has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The 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.

For this appeal, the appellants were abundantly clear that they found the low purchase price of their home in 2001, some eleven years ago from the current assessment date, was not properly reflected in assessment as compared to other homes which were purchased in 2001 or 2002 for higher prices. Without any other context, this argument has some overall persuasive value. However, the duty of the assessing officials is to assess property at least once every four years (i.e., the quadrennial) as near as practicable to 33.33% of the property's fair cash value (i.e., market value). "On or before June 1 . . . 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, or in accordance with Sections 10-110 through 10-140." The Board finds assessors are statutorily bound to determine a given property's fair cash value as near as practicable **as of** the date of January 1 of a given assessment year. Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428 (1970). All of these terms imply a "current" fair cash value, not a fair cash value that occurred some eleven years prior as argued herein by the appellants.

For this appeal, the Board finds the appellants submitted an appraisal, but failed to bring the appraiser to the hearing. Without the presence of the appraiser at the hearing, the Board finds the appraisal report is tantamount to hearsay. Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill. App. 3d 887 (1st Dist. 1983). Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2nd Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1st Dist. 1971). Thus, in the absence of an appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the appraisal evidence and the value conclusion of $207,000 as of September 13, 2012 has been

significantly diminished and cannot be deemed conclusive as to the value of the subject property.

In support of the overvaluation argument, the appellants also submitted two pages from the Zillow.com website, three pages from the Realtor.com website and two pages from the Trulia.com website indicating the subject had estimated market values ranging from $180,000 to $204,525. The Board also gives this market value evidence no weight. First, there was no indication for any of these reports, other than the date it was printed of February 22, 2013, as to the effective date of the estimate of value. Second, the reports did not have a definition of market value that was used in the respective reports. Third, there was no information with respect to the credentials or qualifications of the person or persons providing the estimates of value. Fourth, there was no data such as a description of the comparable sales and the sale dates that were used to establish the estimate of value. Without this information the Property Tax Appeal Board cannot determine the reliability and validity of the respective estimates of value and therefore has given this evidence no weight.

As noted in Footnote 2, the Board has given no weight to the 2002 sale prices of the appellants' comparable properties because of the passage of time such that those prices would not be valid indications of the current fair cash values of those properties as of the assessment date of January 1, 2012.

The only recent comparable sales that were discussed at the hearing were submitted by the board of review[3] which sold in June 2010 and May 2011 for prices of $245,000 and $246,000 or $111.87 and $107.94 per square foot of living area, including land, both of which are higher prices than the subject's estimated market value as reflected by its assessment of $217,677 or $95.56 per square foot of living area, including land. To the extent that the sales and listings in the appellant's appraisal report are considered, of the five properties described, only comparable #1 in the report had a sale price lower than the subject's estimated market value based on its assessment. This one comparable was also twice as old as the subject dwelling, although it does have basement finish which the subject does not have. In summary, however, the Board finds that one sale without additional supporting market value evidence is

[3] The appellants did not discuss the additional grid analyses that listed six properties and/or the additional Multiple Listing Service data sheets for six additional properties.

insufficient data upon which to adjust the subject's assessment; "one sale does not make a market."

From the appellants' Section V grid analysis, the four comparables have improvement assessments ranging from $18.64 to $19.30 per square foot of living area. With regard to equity data, the board of review presented three comparables with improvement assessments ranging from $23.45 to $24.52 per square foot of living area. The subject has an improvement assessment of $20.60 per square foot of living area which falls within the range of these seven equity comparables presented by both parties.

Finally, given that the assessment data on Appellants' Exhibit 1 concerns assessments for 2013 and 2014, the Board has given no weight to this assessment data as it does not concern the 2012 assessments of the subject and comparable properties.

In conclusion, after hearing the testimony and considering the evidence, the Board finds the record evidence does not warrant a reduction in the subject's assessment.

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: November 21, 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.