



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

APPELLANT: Charles & Jill Jensen
DOCKET NO.: 13-00328.001-R-1
PARCEL NO.: 07-08-33-101-009

The parties of record before the Property Tax Appeal Board are Charles & Jill Jensen, the appellants, and the Kankakee County Board of Review by Assistant State's Attorney Nancy A. Nicholson.

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

LAND: \$6,753
IMPR.: \$75,751
TOTAL: \$82,504

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Kankakee 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 tri-level single-family dwelling of frame and masonry exterior construction with 2,916 square feet of living area. The dwelling was constructed in 1968 with conversion of an existing garage to living area and construction of a new garage in 1980. Features of the home

include central air conditioning, a fireplace, a 208 square foot screen or sunroom, a 512 square foot in-ground swimming pool and an attached 648 square foot garage. The property has a 1.32-acre site and is located in Kankakee, Limestone Township, Kankakee County.

The appellants contend assessment inequity as the basis of the appeal challenging both the land and improvement assessments of the subject property. The appellants included arguments regarding the comparables chosen and issues regarding the subject property. The appellants reported that the subject parcel "floods after any measurable rainfall" with three culvert pipes draining to the subject parcel and the road in front of the parcel is also higher than the subject property. In addition, the appellants surmised that the purchase price of the subject property from 2006 of \$259,000 which included an adjoining lot is the basis of the subject's assessment, despite the fact that the adjoining parcel is separately assessed and taxed. Based upon the facts regarding the flooding/retention of area water runoff, the appellants contend the subject property is "over assessed" based on its value. The appellants also submitted a compact disc identified as "Board of Review Hearing 1/9/2014." As the law is clear that proceedings before the Property Tax Appeal Board are de novo "meaning the Board will only consider the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review" (86 Ill.Admin.Code §1910.50(a)), the Board has not listened to this compact disc. Moreover, the jurisdiction of the Property Tax Appeal Board is limited to determining the correct assessment of the property appealed to it. (35 ILCS 200/16-180). Therefore, the Property Tax Appeal Board will consider the evidence presented by both parties to this proceeding in determining the correct assessment of the subject property.

In support of the inequity arguments, the appellants submitted a grid analysis with information on three equity comparables located within one-mile of the subject property. The comparable parcels range in size from 1 to 1.63-acres of land area¹ with land assessments of \$5,117 or \$6,091 or from \$0.09 to \$0.12 per square foot of land area. The comparable dwellings consist of a 1.5-story and two one-story dwellings of brick or brick and frame construction. The homes were built between 1954 and 1993 with a 2009 addition to comparable #3; the homes range in size from 1,808 to 3,234 square feet of living area. Two of the

¹ As part of the submission, the appellants note that comparable #1 has a 1.63-acre homesite with an assessment for that homesite land area of \$6,091.

comparables have full or partial basements that have finished area and one of which is a walkout style. Each home has central air conditioning, a fireplace and a garage ranging in size from 576 to 936 square feet of building area. One comparable has a pool, three-season room and "party house" while another comparable has a four-season room. The improvement assessments range from \$66,196 to \$83,571 or from \$22.42 to \$39.51 per square foot of above-grade living area.

Based on this evidence, the appellants requested a land assessment of \$4,500 or \$0.08 per square foot of land area and an improvement assessment of \$65,000 or \$22.29 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$82,504. The subject property has a land assessment of \$6,753 or \$0.12 per square foot of land area and an improvement assessment of \$75,751 or \$25.98 per square foot of living area.

The board of review submitted a letter from the Assistant State's Attorney and memorandums from the township assessor. In summary, the board of review contended that the subject dwelling is larger than appellants' comparables #1 and #2 in living area and appellant's comparable #3 has a smaller parcel than the subject. The board of review also noted that part of appellant's comparable #1 has a preferential farmland assessment, but the board of review did not dispute the appellants' contention that 1.63-acres was assessed as homesite for \$6,091 or \$0.09 per square foot of land area. Other than reiterating the appellants' three comparables with minor modifications to the details, the board of review submitted no equity comparables to support its assessment of the subject property.

In light of the foregoing argument, the board of review requested confirmation of the subject's land and improvement assessments.

In written rebuttal, the appellants submitted a five-page brief with multiple attachments. In the memorandum, the appellants disputed some of the characteristics and descriptions of the subject and the appellants' comparable properties as set forth by the township assessor in terms of amenities, number of full and half baths.

In rebuttal the appellant reiterate their contention that the flooding and the age of the subject property affect its "value" although the appellants did not file this appeal based upon overvaluation and the appellants did not submit market value evidence such as an appraisal of the subject property or comparable sales in an effort to establish that the subject property is overvalued. (See 86 Ill.Admin.Code §1910.65(c)). To the extent that the appellants raised recent sale prices of comparable properties and/or new properties previously not submitted in this record, the Board has not considered this evidence. Pursuant to the rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)).

The Kankakee County Board of Review filed a Motion to Strike the appellants' rebuttal evidence contending that the filing was not timely. The copy of the rebuttal sent to the board of review reflected that it was received by the Property Tax Appeal Board on October 30, 2014. Based upon this "received" stamp, the board of review contends that the filing is untimely.

The appellants were notified of the motion to strike and responded with evidence establishing the mailing of their rebuttal documentation by certified mail on October 28, 2014.

By letter dated September 29, 2014, the Property Tax Appeal Board forwarded the board of review's evidence to the appellants and granted the appellant's 30 days from the postmark of that letter to submit rebuttal evidence. The Board's rules, 86 Ill.Admin.Code §1910.25, provide for "computing time limits":

a) The time within which any act under this Part is to be done shall be computed by excluding the first day and including the last. Saturdays, Sundays and legal holidays for the State of Illinois shall be included in computing the time, except that when the time period expires on a Saturday, Sunday or a legal holiday for the State of Illinois, the time period shall be extended to include the next following business day.

b) Petitions, evidence, motions, and all other written correspondence sent by United States Mail to the

Property Tax Appeal Board shall be considered filed as of the postmark date in accordance with Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25].

In accordance with the Board's rules, the appellants timely postmarked their rebuttal evidence on October 28, 2014 and the motion to strike the appellants' rebuttal is hereby denied. Furthermore, the request by the board of review to file surrebuttal evidence is deemed moot in light of the evidence of record and the limited nature of the appellants' rebuttal that was admissible evidence regarding assessment equity issues.

Conclusion of Law

The taxpayers contend assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellants did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

Regarding the land inequity contention, the Property Tax Appeal Board finds the three comparable parcels had land assessments ranging from \$0.09 to \$0.12 per square foot of land area. The subject has a land assessment of \$0.12 per square foot which is within the range established by the appellants' comparables. Based on this record, no reduction in the subject's land assessment is warranted on grounds of lack of uniformity.

As to the improvement inequity argument, the Board finds the appellants submitted dissimilar styles of dwellings that were either one-story or 1.5-story homes as compared to the subject tri-level dwelling. Two of the dwellings were also dissimilar to the subject in above-grade living area having either 1,808 or 2,115 square feet of above-grade living area² as compared to the subject dwelling of 2,916 square feet. Despite all these differences, the Board finds the equity comparables that were

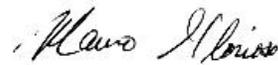
² In several parts of the appellants' analyses, there were arguments that appeared to include below-grade/basement area finished space as "living area" which is not the appropriate analysis for assessment purposes; finished area is assessed, but it is not included in "living area" calculations.

presented by the appellants had improvement assessments ranging from \$22.42 to \$39.51 per square foot of above-grade living area. The subject's improvement assessment of \$25.98 per square foot of above-grade living area falls within this range and appears to be well-supported by the most similar comparable, appellants' comparable #3, which is similar in age, somewhat similar in design, most similar to the subject in dwelling size and lacks a basement. Thus, the Board thus finds the evidence in the record supports the subject's improvement assessment.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. 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 appellants 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.

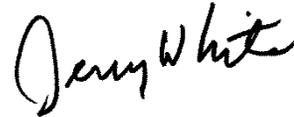
This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman



Member

Member



Member

Acting 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: August 21, 2015



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.