



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

APPELLANT: Michael & Joanne Elliott
DOCKET NO.: 07-27267.001-R-1
PARCEL NO.: 03-32-424-045-0000

The parties of record before the Property Tax Appeal Board are Michael & Joanne Elliott, the appellant(s), by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines; and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 31,076
IMPR.: \$ 90,902
TOTAL: \$121,978

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property has 26,790 square feet of land, which is improved with a ten year old, two-story, frame and masonry, single-family dwelling containing 5,031 square feet of living area. The dwelling's amenities include a full unfinished basement and air conditioning. The appellant's appeal is based on unequal treatment in the assessment process of the improvement.

In support of the equity argument, the appellant, via counsel, submitted descriptive and assessment information on five properties suggested as comparable to the subject. These properties are described as two-story, masonry or frame and masonry, single-family dwellings that range in age from seven to ten years old, and in size from 4,370 to 5,677 square feet of living area area. The suggested comparables have from two and one-half to three and three one-half baths, from one to two fireplaces, and from a two-car to a three and one-half-car garage. All of the properties have a full unfinished basement, and air conditioning. These suggested comparables have improvement assessments ranging from \$14.28 to \$18.14 per square foot of living area. However, the appellant has calculated the assessment per square foot in a different fashion. The appellant has divided the properties' total assessment by their improvement

size. Using this assessment valuation, the comparables' improvement assessments range from \$18.21 to \$21.91 per square foot of living area after correcting counsel's arithmetic errors. It appears that, while the figures are all listed, they are not listed under the appropriate comparable property. For example, Comparable #1's improvement assessment according to counsel's formula is \$18.21, but that figure is listed under Comparable #5. This is the case for all five comparables.

The appellant argues that this valuation method should be used because the subject contains more land than the comparables, and that this extra land does not add value to the subject. As such, this valuation method was used to take the land into account.

The appellant also submitted a map showing the location of the subject and the five suggested comparables, as well as color photographs of all the properties. Additionally, the appellant submitted a uniformity analysis grid sheet that was separate from the property characteristics grid sheet. Also, the Property Tax Appeal Board (the "Board") notes that the map and the uniformity analysis labeled the comparables as different numbers. To avoid confusion, the Board will reference the comparables as they are identified on the property characteristics grid sheet (i.e. PIN 03-32-425-015-0000 will be Comparable #1, and not Comparable #5 as is indicated on the map and uniformity analysis).

The appellant also argued that the assessor's records regarding the subject's bathrooms, fireplaces, and garage space are incorrect. The assessor's records state that the subject contains three and three one-half baths, two fireplaces, and a four-car garage. The appellant asserts that the subject contains four and one-half baths, one fireplace, and a three car garage. The Board also notes that the subject is counsel's own homestead property. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$121,978 was disclosed. In support of the subject's assessment, the board of review presented descriptive and assessment information on four properties suggested as comparable to the subject. These properties are described as two-story, masonry or frame and masonry, single-family dwellings that range in age from 4 to 77 years old, and in size from 4,458 to 5,416 square feet of living area. The suggested comparables have from three and one-half to four and two one-half baths, one to five fireplaces, and either a two-car or a three car garage. All of the properties have a full unfinished basement and air conditioning. These suggested comparables have improvement assessments ranging from \$17.85 to \$20.82 per square foot of building area. The subject's assessment is \$18.07 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant stated that the board of review's comparables were not similar to the subject for various reasons. The appellant also reiterated that the assessor's records regarding the subject's bathrooms, fireplaces, and garage size were incorrect, and corrected those measurements on a copy of the board of review's grid sheet. However, the appellant wrote that the subject contains a two and one-half-car garage. This contradicts the appellant's previous assertion in the record that the subject has a three-car garage. Next the appellant wrote in the assessment per square foot using the appellant's valuation method previously articulated in the record. Under this valuation method, the board of review's comparables' improvement assessments ranged from \$20.17 to \$25.09 per square foot of living area. The appellant also submitted an appraisal of the subject that was not previously submitted.

At hearing, the appellant and counsel, Joanne Elliott, began by questioning her husband and law partner, Michael Elliott, about the subject property. Mr. Elliott began by testifying about various characteristics of the subject property, including its construction and its location. Ms. Elliott and the Cook County Board of Review Analyst, Michael Terebo, then stipulated to Mr. Elliott's qualifications as an expert in the field of real estate tax appeals, and the Board accepted Mr. Elliott as such an expert.

Mr. Elliott then testified as to how he prepared the uniformity analysis. He testified that he prepared it by looking at the Cook County Assessor's website, by talking to builders in the area regarding the interior finishes of the comparables, and by looking at Multiple Listing Service listings of the comparables. Based on the information from these sources, Mr. Elliott testified that he was able to make appropriate adjustments to the comparables.

Mr. Elliott then testified that the assessor's records are incorrect regarding the subject's bathrooms, fireplaces, and garage size. Mr. Elliott testified that the subject contains four and one-half baths, one fireplace, and a three-car garage. The witness added that the finishes in the home are less desirable than the finishes in the suggested comparables. Next, Mr. Elliott testified as to how and why he made adjustments in the uniformity analysis.

Then Mr. Elliott described his reasoning for using a different assessment valuation method in determining the subject's improvement assessment. Mr. Elliott testified that the subject's land size was significantly larger than the comparables' land size. He testified that the extra land does not add proportionately more value to the subject based on the principle of diminishing economic returns. Therefore, he testified, the land must be taken into account when calculating the improvement assessment. However, when directly asked by Ms. Elliott, Mr. Elliott testified that he was not making an excess land argument when preparing the appeal, where part of the subject's land would

be assessed at one value per square foot, and the remaining, "excess" land would be assessed at a lower value per square foot. Instead, Mr. Elliott asserted, his analysis was based on the principle that a large parcel of land should be assessed at a lower price per square foot than a significantly smaller parcel of land. When asked by the Board if he had ever seen the Cook County Assessor, the Cook County Board of Review, the Property Tax Appeal Board, an Illinois court, or an appraiser use this valuation method, Mr. Elliott testified that the assessor and board of review don't use it, and that he has seen an appraiser use it.

Mr. Elliott then testified that an appraisal was done on the property in 2008, and that the appraised value was \$850,000 as of January 1, 2008. Mr. Elliott testified that this is further evidence that the subject is not being uniformly assessed, but not that the subject is overvalued. Next, the witness testified that he has seen cases where the Board used both class 2-08 and class 2-09 properties as comparables to a class 2-09 property, and that the distinction between the two classes is arbitrarily set by the assessor.

On cross examination, Mr. Terebo then asked Mr. Elliott if his assessment valuation method is used by the assessor throughout Cook County, or whether it should be applied only in this case. In a very comprehensive response, Mr. Elliott stated that his valuation method would be the fair method in this case. He added that he remembers seeing cases in the Board's annual Synopsis of Representative Cases where he thinks the Board used his valuation method. Mr. Elliott did not give any docket numbers for those appeals, however. Mr. Terebo then asked what percentage of cases Mr. Elliott's firm has filed with the board of review that use this valuation method. Mr. Elliott testified that he does not know, but that his firm treats each case individually. Next, Mr. Terebo asked if Mr. Elliott believed the distinction between class 2-08 and class 2-09 properties to be arbitrary just in this case, or in all instances. Mr. Elliott answered by stating that if the distinction results in absurd assessments, then in those cases it would be seen as arbitrary. Next, Mr. Terebo asked Mr. Elliott if he was aware of any pending legislation that would prescribe the valuation method the assessor must use. Mr. Elliott stated that the current law did not prescribe any valuation method.

During the board of review's case-in-chief, Mr. Terebo testified that the board of review's comparables are similar to the subject. Mr. Terebo also testified that the Board should not consider the appellant's valuation method because it is not an accepted method in Cook County, and that there is no documentary evidence to show that the valuation method is acceptable elsewhere.

On cross-examination, Ms. Elliott asked Mr. Terebo about the property descriptions of the board of review's comparables, in comparison to the black and white photographs of the comparables

submitted by the board of review. The parties agreed that it appears all four comparables have been torn down and that the photographs in the board of review's evidence no longer match the descriptions in the grid sheet. Ms. Elliott then asked Mr. Terebo if the board of review would consider comparing a class 2-09 to a class 2-06 property, as the board of review's Comparable #1 is a class 2-06. Mr. Terebo testified that he would compare a class 2-09 to a class 2-06, but reiterated that he would not compare a class 2-09 to a class 2-08.

In rebuttal, Mr. Elliott testified that all four of the board of review's comparables had been torn down and a new improvement had been constructed thereon. Mr. Elliott also testified to the best of his personal knowledge as to some of the characteristics of the board of review's comparables as of January 1, 2007. On cross-examination, Mr. Terebo asked Mr. Elliott what class the board of review's suggested comparables were as they stood on January 1, 2007. Mr. Elliott testified that he would have to see the assessor's records to accurately answer the question. Upon questioning from the Board, Mr. Elliott testified that he saw the improvements in the board of review's pictures, then saw those improvements torn down, and then saw a new improvement constructed thereon. Mr. Elliott also testified that he knows some of the owners of the properties.

During closing arguments, Ms. Elliott, for the first time in this appeal, brought up that un-rebutted market value evidence has been submitted by the appellant in the form of an appraisal; and that if the equity argument made by the appellant is not accepted by the Board, the appellant has proven, by a preponderance of the evidence, that the subject is overvalued.

After reviewing the record, hearing the testimony, and considering the evidence, the Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

Initially, the Board finds that the subject contains four and one-half baths, one fireplace, and a three-car garage. Mr. Elliott testified that he owns the subject, and that the subject's improvement has these characteristics. The board of review had no evidence to the contrary. Therefore, the Board finds as such.

Second, the Board finds that the appraisal submitted by the appellant in rebuttal cannot be considered by the Board under the Official Rules of the Property Tax Appeal Board. Section 1910.66(c) of Title 86 of the Illinois Administrative Code states: "Rebuttal evidence shall not consist of new evidence *such as an appraisal* or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence." 86 Ill. Admin. Code § 1910.66(c) (emphasis added). Additionally, Section 1910.67(1) of Title 86 states: "Appraisal testimony offered to prove the valuation asserted by any party shall not be accepted

at the hearing unless a documented appraisal has been *timely submitted by that party* pursuant to this Part." 86 Ill. Admin. Code § 1910.67(1) (emphasis added). This appraisal was submitted in rebuttal, and, therefore, was not timely filed. Thus, the Board will not consider it.

Next, the Board finds that it cannot consider Mr. Elliott's testimony describing how he compiled his uniformity analysis. Mr. Elliott testified that he spoke with builders in the area to ascertain the interior finishes in the comparables. The Board finds that this is inadmissible hearsay evidence. It is true that the Board employs relaxed rules of evidence, but "relaxed" does not mean "nonexistent." 86 Ill. Admin. Code § 1910.92(a). Therefore, the Board will not consider this evidence.

Fourth, the Board finds that the valuation method used by the appellant in this case is not appropriate. On cross-examination, Mr. Elliott testified that the law does not prescribe a particular valuation method that the assessor must use in assessing real property. This is true. However, once a method is chosen, the Illinois Constitution requires that there be consistency in the basis of achieving uniformity of assessments. Ill. Const. of 1970, art. IX, § 4(a); Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 235 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1, 20 (1989)). Since consistency in the valuation method is constitutionally required, the Board cannot apply the appellant's maverick valuation method in this appeal, and a different valuation method in all other instances. To do so would abridge the constitutional principle of uniformity of assessment. Moreover, Mr. Elliott was unable to identify one instance where his valuation method was accepted by anyone bound by the Illinois Constitution. He only stated that he has seen an appraiser use this valuation method previously; but, appraisers are not bound to the confines of the constitution. This Board is so bound, and it will apply the valuation method used by the Cook County Assessor, which is calculated by dividing the subject's improvement assessment by the improvement's size.

As to the merits of the case, the appellant contends unequal treatment in the subject's improvement assessment as the basis of this appeal. 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. Walsh, 181 Ill. 2d at 234 (citing Kankakee Cnty. Bd. of Review, 131 Ill. 2d at 22); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing

Du Page Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 654-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

The Board finds that Comparables #2, #4, and #5 submitted by the appellant, and Comparables #2, #3, and #4 submitted by the board of review were most similar to the subject in location, size, style, exterior construction, features, and 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 \$15.57 to \$20.82 per square foot of building area. The subject's improvement assessment of \$18.07 per square foot of building area is within the range established by the most similar comparables. Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement assessment is equitable, and a reduction in the subject's assessment is not warranted.

In closing arguments, the appellant raised a market value argument for the first time in this appeal. The Board finds that this argument was not timely raised and cannot be considered by the Board. 35 ILCS 200/16-180 (stating "Each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board."); see also 86 Ill. Admin. Code § 1910.50(a). Therefore, the Board finds that a reduction cannot be granted based on overvaluation.

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: October 19, 2012

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.