FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: James & Sharon Boyles
DOCKET NO.: 12-01666.001-R-1
PARCEL NO.: 09-18-131-010

The parties of record before the Property Tax Appeal Board are James & Sharon Boyles, the appellants, and the Whiteside County Board of Review by Attorney Christopher E. Sherer of Giffin, Winning, Cohen & Bodewes, P.C. in Springfield.

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

LAND:	$3,090
IMPR.:	$55,240
TOTAL:	$58,330

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Whiteside 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 4,260 square feet of living

area.[1] The dwelling was constructed in 1890. Features include a partial unfinished basement, central air conditioning, six fireplaces and a detached four-car garage containing 1,000 square feet of building area. The property has a 34,412 square foot site or .79 of an acre and is located in Morrison, Mt. Pleasant Township, Whiteside County.

The appellants appeared before the Property Tax Appeal Board contending assessment inequity and overvaluation as the bases of their appeal. The appellants challenged the subject's improvement assessment; no dispute was raised concerning the subject's land assessment. In support of the inequity and overvaluation arguments, the appellants submitted a two-page grid analysis with both equity and the last sales information on eight comparable properties, seven of which had sales information. The comparables are located within six blocks of the subject property. The appellants also submitted a three-page brief and copies of applicable property record cards.

The sales of seven of the properties occurred between 1978 and October 2009 for prices ranging from $45,000 to $240,000. The Property Tax Appeal Board finds the appellants did not present at least three **recent** sales of comparable properties as required by the Board's rules. [Emphasis added.] (86 Ill.Admin.Code §1910.65(c)(4)) Appellants' comparable #8 sold in October 2009, the next sale most proximate to the assessment date of January 1, 2012 occurred in April 1997 and then the next most proximate sale was comparable #1 that sold in May 1995. At hearing, the appellants also asserted that comparable sale #8 was presented with a "disclaimer" because the property has twice the land area and more than twice the dwelling size when compared to the subject. Furthermore, this comparable consists of two homes, a gazebo and a six car garage which all differentiate this property from the subject. On the other hand, however, the appellants contend that since this home sold in 2009 for $240,000, the sale price of this property helps explain why the subject's estimated market value of $239,000 is deemed to be excessive.

When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence.

[1] There was a factual dispute between the parties at hearing regarding the dwelling size. The appellants contended the home has 2,070 square feet of living area on each floor according to their own schematic drawing. The assessing officials recorded on the property record card 2,706 square feet on each floor. (BOR Exhibit 1) Subsequent to the hearing, the board of review submitted a Motion to Supplement Record that was shared with the appellants conceding the home's correct first floor size was 2,129.5 square feet.

National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code §1910.65(c). The Property Tax Appeal Board finds that the three "most recent" sales collectively are too remote in time from January 1, 2012 to be indicative of the subject's market value as of the assessment date at issue. The Board finds the appellants failed to meet their burden of proof with regard to an overvaluation claim and thus, the appellants' overvaluation argument will not be addressed further in this record.

As to the chosen equity comparables, the appellants explained that the properties selected can be characterized as a style of large, old homes with historic appeal. The appellants noted that both parties utilized properties located primarily on heavily traveled roads which the appellants believe to be appropriate when comparing to the subject. The appellants' comparables had improvement assessments ranging from $4.38 to $16.73 per square foot of living area.

As an additional argument set forth at hearing, the appellants in essence made a sales ratio argument. The appellants analyzed the 1992 purchase price of the subject home for $125,000 as compared to their comparables #1, #4 and #7 that were purchased from 1988 to 1995 for prices ranging from $107,500 to $140,000. Given this fairly tight range in sales prices in a similar time frame, the appellants further contend that but for the addition of a pool to comparable #4, these comparable dwellings have only had cosmetic remodeling with no additions or other improvements since the date of purchase. However, in spite of these similarities, the 2012 total assessments of these three comparables range from $32,589 to $64,000 whereas the subject has a total assessment of $79,681.

As a final argument, the appellants analyzed the comparables and the subject on the basis of the "equity of taxes." Analyzing the appellants' comparables #1 through #7 along with board of review comparables #2 and #3 which were deemed to be the most similar properties to the subject by the appellants, they argued that the percentage differences in the 2012 assessments of these properties to the subject's total assessment ranged from 125% to 244%.

Based on this evidence and argument, the appellants requested a total assessment of $58,330 or a market value of approximately $174,990.

On cross-examination, the appellants conceded that board of review comparables #2 and #3 were comparable to the subject property. The appellants did not agree that board of review comparable #6 was appropriate for an equity analysis since that property also was markedly increased in its assessment for 2012 from $61,998 to $79,293, as did the subject rising from $55,429 to $79,681 from 2011 to 2012. The appellants further testified that the 2011 assessment of the subject property was fair.

The appellants also testified that the subject property has been offered for sale "on and off" for the past three years. In both 2011 and 2012, the subject property was offered for sale for $299,000. At the time of hearing in November 2014, the subject property was being offered for sale for $285,000.

On redirect, the appellants addressed the listing price of the subject property. The old, historic dwellings in the community like the subject have "on occasion" been purchased by buyers from out of town, such as Chicago, who have been known to pay higher prices for old historic homes that they then utilize as a weekend retreat. In the three years of having the subject property on the market, the appellants testified that there have been three persons who have looked at the subject property.

On further cross-examination, the appellants were asked about the relationship of their assessment to market value and whether the appellants anticipate that the subject dwelling would sell for less than $240,000? The appellants reluctantly, on the public record, acknowledged "yes."

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $79,681. The subject property has an improvement assessment of $76,591 or $17.98 per square foot of living area.

At hearing, the board of review called Robin Brands, the Chief County Assessment Officer of Whiteside County, as their first witness. She has held this appointed position for the past four years and has worked within the office for the previous 17 years. She also annually takes courses to maintain her designation as a Certified Illinois Assessing Official ("CIAO"). There are roughly 35,000 parcels within the county for assessment purposes.

Brands testified that after a remeasure of the subject there was a new and corrected property record card that was presented at hearing as board of review Exhibit #1.[2] The witness also testified the subject dwelling is in good condition and a very historic home that is about 123 years old. Brands viewed the dwelling in 2012 and as recently as the day of the hearing, although she has not viewed the interior. She also stated that, according to Mrs. Boyles' testimony at the board of review hearing, the kitchen of the dwelling was remodeled "about 20 years ago."

The board of review reported sales prices for their comparables that occurred between July 1986 and October 2011 for prices ranging from $51,000 to $185,000. Like the appellants' submission, the board of review's sales lack the requirement of at least three **recent** sales; the most recent sales having occurred in October 2011, December 2007 and December 1992. In light of this dearth of recent sales evidence, the Board will similarly not further address the board of review's market value evidence in this decision.

In support of its contention of the correct assessment the board of review submitted information on six equity comparables located within 12 blocks of the subject property. The comparables have improvement assessments ranging from $18.01 to $21.93 per square foot of living area. Brands selected the comparables and obtained the applicable property record cards from the township assessor. In the selection of properties, Brands testified that she considered dwelling size and historic two-story homes with "a lot of emphasis on historic as far as being the same age," but then square footage was also entered into the selection. The witness acknowledged that several of the comparables are significantly smaller than the subject dwelling and that the properties also have varying degrees of similarity and dissimilarity to the subject when comparing characteristics.

As part of her testimony, Brands explained the various reasons why appellants' comparables #1, #2, #4, #5, #7 and #8 were not presented by the board of review as suitable comparables when compared to the subject dwelling.

When asked by Attorney Sherer to explain the discrepancy in improvement assessment between the subject at $17.99 per square

[2] As depicted above in Footnote 1, the correction to dwelling size was actually erroneous.

foot of living area and the similarly sized appellants' comparable #2 at $9.07 per square foot of living area that is otherwise admittedly similar to the subject in many respects, Brands testified, "I - I don't know. It's possible that this -- property did not get reassessed in 2012 when all the others did."

When asked by the Administrative Law Judge for reassessment purposes what the jurisdiction was; do not assessing officials have to reassess the entire jurisdiction? Brands testified, "Um, I believe, from what I have been told from the township assessor, they did certain quadrants in the town of Morrison." When asked then if appellants' comparable #2 located less than three blocks from the subject property was not within the same quadrant? Brands stated, "that would be a question for the township assessor."

Upon further direct examination by counsel, Brands testified that she suspects that appellants' comparable #3, located less than five blocks from the subject, was similarly not reassessed. When Brands was asked if there was a reason she did not select appellants' comparable #3 as a suitable comparable, she said, "no." Brands then testified that appellants' comparables #2 and #3 were similar to the subject. She also stated that appellants' comparable #6 should have been used as a comparable by the board of review with a similar location to the subject even though this comparable has an in-ground pool.

On cross-examination, Brands testified that appellants' comparable #1 has been re-measured and found to contain 5,111 square feet of living area as compared to what the records previously stated and as reported by the appellants of 6,948 square feet of living area. In light of this reported change in size, Brands acknowledged that this is possibly a suitable comparable to the subject, although this comparable "had been a business before" having been a restaurant on the first floor with a residence above and Brands was not sure what work was done to re-convert the first floor into a dwelling. With additional questions, Brands admitted appellants' comparable #1 has been used as a residence since its last sale date in May 1995.

Again, as to appellants' comparable #2, except for the new room addition with new amenities and garage, Brands agreed this was a comparable to the subject. Brands testified she was not sure what was included in the remodel of this comparable. The witness further testified that the current listing of

appellants' comparable #2 has been increased to $225,000 with a notation in the listing that both garage roofs were replaced in 2012; the witness also agreed the previous listing had been for $175,000.

Upon questioning on cross-examination, Brands was not sure that she had said appellants' comparable #5 was not a suitable comparable; the witness acknowledged that none of the comparables presented by the parties have six fireplaces like the subject. Therefore, Brands acknowledged that appellants' comparable #5 was also a reasonable comparable.

Similarly, Brands reiterated that appellants' comparable #6 was a reasonable comparable to the subject, except for the in-ground pool. Brands acknowledged that the pool amenity of this property would possibly add to its assessed valuation.

Upon questioning by the Administrative Law Judge, with regard to the "CDU" or "condition, desirability and utility" notation, board of review comparable #1 was superior to the subject; the land area of this comparable was also significantly larger than the subject parcel. Brands further acknowledged that the lack of central air conditioning for this comparable is an important difference as it would be an expensive feature to add to an historic residence. Brands also acknowledged that board of review comparable #6 has a superior CDU notation when compared to the subject.

Brands also testified that the subject's improvement assessment of $17.99 per square foot of living area did not make logical sense to her given its CDU notation of A and its lack of a swimming pool when compared to the comparables presented, including appellants' comparables #1, #2 and #3 that had improvement assessment of less than $10.00 per square foot and were comparable to the subject in many respects.

On re-direct examination, Brands reiterated that appellants' comparable #1 was a restaurant "at one time" back in 1995 and has not been a business since that time to her knowledge.

Brands further testified that when selecting comparables to present on behalf of the board of review, she limited herself to those properties that were reassessed in 2012. When asked why by the Administrative Law Judge, Brands said, "To support our complaint." Brands went on to volunteer that all of the appellants' comparables have been reassessed since 2012. Brands further acknowledged that the township assessor did not reassess

the entire jurisdiction and she is aware that assessors cannot "pick and choose" for reassessment purposes; Brands stated "this has been made a point of to the township assessor."

Next, the board of review called Kathy Hogue, who was working as a deputy assessor with the Mt. Pleasant Township Assessor for the preparation of the subject's 2012 assessment. Hogue opined that appellants' comparable #1 was dissimilar to the subject due the lack of a garage, but then stated that on the whole this was a pretty good comparable when compared to the subject.

Hogue testified that for 2012, the township "was doing reassessments in quadrants."

On cross-examination, Hogue was asked to enumerate the quadrant divisions for reassessment relative to the comparables presented by both parties. Hogue said she did not have "the list" of the streets for each quadrant available; however, she testified that all of the board of review's comparables were located within the same quadrant. The board of review's submission includes a map depicting the location of each of the board of review's comparables along with the subject property; the subject and board of review comparables #1, #2, #3 and #4 are located in the same general vicinity; board of review comparables #5 and #6 are more distant from each other and from the cluster of comparables that were closer to the subject. Hogue testified that appellants' comparables #2 and #4 were not in the same quadrant for reassessment, but the remainder of the appellants' comparables were within the quadrant and were "looked at" for reassessment purposes. Upon further questioning, Hogue testified that the quadrant lines "were not an established thing."

At this point during the cross-examination of Hogue, Brands spoke up and said:

> There are not supposed to be quadrants. Everything in the township is supposed to be reassessed. According to the statutes.

In rebuttal to the board of review's submission, the appellants contended that board of review comparables #1 and #4 were "acreage" or estate properties that have long driveways and are secluded from the roadway reducing noise and traffic consequences and thus differ from the subject property which is located on State Route 30, a heavily trafficked highway. The appellants further argued that of the remaining comparables from

the board of review, the majority have dramatically smaller lot sizes when compared to the subject property. The appellants had no dispute with the board of review's comparables for age, room count and/or number of bathrooms. Furthermore, as to comparability, the appellants contend that two Queen Anne Victorian homes, appellants' comparables #5 and #6, should have been considered by the assessing officials as the most similar dwellings to the subject.

As to the equity analysis of the board of review's comparables, the appellants argued that the comparables #1, #4 and #5 differ from the subject in land size, age, dwelling size, exterior construction, room count and/or bathroom count. The appellants also contend that board of review comparable #6 is an inappropriate comparable because this property along with the subject and other selective properties were reassessed for 2012.

As to the comparability of market values, the appellants contend that board of review comparable #5, which is argued by the assessing officials to be similar to the subject, sold in October 2011 for $138,000 and yet the subject as of January 1, 2012 has an estimated market value based on its assessment of approximately $239,000. In addition, the appellants contend that board of review comparable #3 was recently listed for sale for $5,000 less than its purchase price in December 2007 of $185,000.

Conclusion of Law

The taxpayers contend assessment inequity as a 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Uniformity Clause of the Illinois Constitution provides that: "Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Taxation must be uniform in the basis of

assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401, 169 N.E.2d 769 (1960). Taxation must be in proportion to the value of the property being taxed. Apex Motor Fuel, 20 Ill. 2d at 401; Kankakee County Board of Review, 131 Ill.2d at 20, 544 N.E.2d 762, 136 Ill.Dec. 76 (fair cash value is the cornerstone of uniform assessment.) It is unconstitutional for one kind of property within a taxing district to be taxed at a certain proportion of its market value while the same kind of property in the same taxing district is taxed at a substantially higher or lower proportion of its market value. Kankakee County Board of Review, 131 Ill.2d at 20, 544 N.E.2d 762, 136 Ill.Dec. 76; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234, 692 N.E.2d 260, 229 Ill.Dec. 487 (1998). After considering the testimony and an analysis of the assessment data the Board finds a reduction in the subject's assessment is warranted.

Testimony provided by both the Chief County Assessment Officer and by the deputy township assessor was that 2012 was a general assessment year in Mt. Pleasant Township. Section 9-155 of the Property Tax Code provides in part that:

> Valuation in general assessment years. On or before June 1 in each general assessment year in all counties with less than 3,000,000 inhabitants. . . 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. . . .

35 ILCS 200/9-155. Testimony by the deputy assessor indicated that some properties in the township, including the subject property, were revalued in 2012. Conversely, other property within Mt. Pleasant Township, but not located in the subject's "quadrant" were not revalued. This selective implementation of a quadrennial reassessment appears to be in violation of section 9-155 of the Property Tax Code's requirement that the assessor is to determine the value of each property as of January 1 and assess the property at 33 1/3% of its fair cash value. Moreover, this error in assessment procedures was admitted by the Chief County Assessment Officer during the course of the cross-examination of the deputy township assessor.

As noted, the Illinois Constitution's uniformity clause requires not only uniformity in the level of taxation, but also in the basis for achieving the levels. Walsh v. Property Tax Appeal

Board, 181 Ill.2d 228, 235, 692 N.E.2d 260, 229 Ill.Dec. 487 (1998); Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 20, 544 N.E.2d 762, 136 Ill.Dec.76 (1989). The record in this appeal disclosed that in 2012 the assessing officials used different methods in valuing property within Mt. Pleasant Township, one being a complete revaluation of the property with a given "quadrant," such as was calculated for the subject, and another method used to make no changes to the assessments in other "quadrants." This practice is in violation of the uniformity clause.

The Board further finds the record contains the assessments of similar historic dwellings located in Mt. Pleasant Township submitted by the appellants as equity comparables. Testimony from both the appellant and the Chief County Assessment Officer was consistent in that both parties were of the opinion that appellants' comparables #1, #2, #3 and #6 were similar to the subject property. These comparables had improvement assessments ranging from $5.95 to $13.04 per square foot of living area. The subject has an improvement assessment of $17.99 per square foot of living area, which is above that of each of the most similar comparables as agreed to by both parties. The subject's assessment is above the range of the most similar historic homes located in close proximity to the subject as set forth in this record. The record evidence and testimony indicates the subject property was being assessed disproportionately in violation of the uniformity clause of the Illinois Constitution.

Based on this record, the Board finds the appellants did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment commensurate with the appellants' request is justified.

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: March 20, 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.