



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

APPELLANT: John Dybas & Sandra Kravetz
DOCKET NO.: 15-01230.001-R-1
PARCEL NO.: 02-06-128-032

The parties of record before the Property Tax Appeal Board are John Dybas & Sandra Kravetz, the appellants, and the Kane County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** in the assessment of the property as established by the **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$17,797
IMPR.: \$81,809
TOTAL: \$99,606

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 one-story dwelling of frame construction with 2,639 square feet of living area. The dwelling was constructed in 2003 making the dwelling 12 years old. Features of the home include a full unfinished basement, central air conditioning, a fireplace and an attached two-car garage of 460 square feet of building area. The property has a 10,454 square foot site and is located in Del Webb Sun City subdivision, Huntley, Rutland Township, Kane County.

The appellants contend assessment inequity as the basis of the appeal in which no change to the subject's land assessment was requested.¹ In support of this inequity argument concerning the

¹ The appellants placed a notation on the appeal petition, "appeal based on total EAV – not specifically broken down between land and buildings." The procedural rules of the Property Tax Appeal Board mandate the petition "state the assessed valuation of the land, and the assessed value of the improvements (structures), and the total assessed value that the contesting party [appellant] claims to be correct." (86 Ill.Admin.Code §1910.30(j))

subject's improvement assessment, the appellants submitted information on three equity comparables located in the subject's subdivision, in Hampshire Township, Kane County and a mile from the subject property. The comparable parcels range in size from 8,242 to 11,734 square feet of land area and are improved with one-story frame or frame and masonry dwellings that were 9 or 10 years old. The homes range in size from 2,605 to 2,707 square feet of living area and feature full basements. The homes have central air conditioning and garages of either 460 or 630 square feet of building area. One of the comparables also has a fireplace. The comparables have land assessments of either \$17,878 or \$18,946 and improvement assessments ranging from \$68,584 to \$71,582 or from \$25.61 to \$27.48 per square foot of living area.

In addition, the appellants submitted a brief with their appeal petition. In part, the appellants addressed evidence presented by the township assessor apparently at proceedings held before the Kane County Board of Review. When this brief was filed, the board of review's evidence had not been submitted to the Property Tax Appeal Board. After the board of review files its evidence in this matter, the appellants will be afforded an opportunity to file rebuttal evidence.

Also as part of the brief, the appellants contended that the subject's corner location is near both an incline and a stop sign. "As the cars pull out of Dakota Fields onto Countryview Blvd., the acceleration can be heard at our house." The appellants further contend this noise is exacerbated by the hill and the occupants of the subject dwelling can hear traffic from Countryview. Furthermore, the bedrooms of the subject dwelling are located most proximate to the corner of Fallow and Dakota Fields roads where there is a stop sign. In light of the subject's location, the appellants opine there is "a direct impact on fair market value and should therefore have an impact on the assessed value."

Based on the foregoing evidence and argument, the appellants requested an unchanged land assessment and a reduced improvement assessment of \$70,084 or \$26.56 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 \$99,606. The subject property has an improvement assessment of \$81,809 or \$31.00 per square foot of living area.

In response to the appeal, the board of review submitted a one-page memorandum from the township assessor along with a grid analysis of seven comparable properties and a copy of the subject's property record card. In the memorandum, the assessor contended that the appellants' comparables are not located in Rutland Township and "therefore are not a good basis for comparison." The assessor provided no further facts to support this contention concerning property that is located in Kane County. As to the noise due to traffic, the assessor asserted "no reductions are given for those streets in Del Webb mentioned in the appellants' appeal."

In support of its contention of the correct assessment the board of review through the township assessor submitted information on seven equity comparables located in Rutland Township and within .92 of a mile of the subject property. The comparable parcels range in size from 7,841 to 11,761 square feet of land area and are improved with one-story frame or frame and masonry dwellings that were 11 or 12 years old. The homes range in size from 2,467 to 2,639 square feet of living area. Three of the comparables feature full basements. Each home has central air

conditioning and garages of either 460 or 540 square feet of building area. Three of the comparables also each have a fireplace. The comparables have land assessments of \$17,797 and improvement assessments ranging from \$78,944 to \$85,108 or from \$31.00 to \$32.25 per square foot of living area.

In addition, the assessor reported that comparables #5, #6 and #7, only one of which has a basement like the subject, sold in May or August 2014 for prices ranging from \$300,000 to \$325,000 or from \$120.53 to \$123.15 per square foot of living area, including land.

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

In written rebuttal, the appellants dispute the contention that similar properties in Hampshire Township are not appropriate comparable properties, citing to the Kane County Board of Review procedural rules. Given that the comparables are in the subject's subdivision, are Dearborn models with a basement like the subject and are located in Kane County, they are suitable comparable properties.

To the extent that the rebuttal submission addresses comparables utilized by the township assessor before the Kane County Board of Review, but were not presented before the Property Tax Appeal Board, those arguments will not be reiterated in this decision. The appellants are advised that the law is clear, 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)).

To further respond to the board of review's market value evidence and to provide sales that occurred in both 2013 and 2014, the appellants provided a summary of new comparable properties. These were identified as #4 through #7, are located in Rutland Township and sold for prices ranging from \$248,000 to \$270,000. In contrast, the appellants note the subject's estimated market value is \$298,818 based on its assessment.

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)). In light of these rules, the Property Tax Appeal Board has not considered comparables #4 through #7 submitted by the appellants in conjunction with their rebuttal argument.

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.

The parties presented a total of ten equity comparables to support their respective positions before the Property Tax Appeal Board. The Board has given no weight to the assessor's contention that similar properties in the subject's subdivision, but located in Hampshire Township are inappropriate comparables to the subject. In examining the comparable properties, the Board has given reduced weight to board of review comparables #2, #3, #5, and #6 due to their lack of a basement foundation(s) when compared to the subject's full basement.

The Board finds the best evidence of assessment equity to be the appellants' comparables along with board of review comparables #1, #4 and #7. These comparables are similar to the subject in location, age, design, exterior construction, foundation and/or features. The comparables had improvement assessments that ranged from \$68,584 to \$85,108 or from \$25.61 to \$32.25 per square foot of living area. The subject's improvement assessment of \$81,809 or \$31.00 per square foot of living area falls within the range established by the best comparables in this record. For the foregoing reasons, the Board finds that the appellants have not proven by clear and convincing evidence that the subject property is inequitably assessed.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. 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 parties 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. 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 (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 (fair cash value is the cornerstone of uniform assessment.) It is unconstitutional for one kind of property within a taxing district to be taxed as 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; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234 (1998). 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 (1989). Neither party established that the comparables in Hampshire Township have a similar fair cash value to those properties in Rutland Township. However, on this record for an equity argument concerning properties in the same county and the same subdivision of similar age, size and features, the Board has examined the appellants' suggested comparables in this record.

In addition, as to the appellants' contention that local traffic noise should be considered in reducing the market value of the subject property, the Board finds the appellants failed to

establish the actual impact, if any, upon market value with their evidentiary submission. The record contains no market evidence to support the appellant's claim regarding the purported loss in value, if such loss exists. Besides a theory that location makes a difference in the marketplace, the Board finds the appellants provided no information to support what that lower value should be based upon this argument; a mere theory and claim of reduced value by the appellants without more is insufficient evidence of an impact on market value. The Property Tax Appeal Board recognizes the appellants' premise that the subject's value may be affected due to traffic noise factors, however, without credible market evidence showing the subject's land or total assessment was inequitable or not reflective of fair market value, the appellants have failed to show the subject's property assessment was incorrect. In addition, board of review comparable #6 is most similar to the subject in most features and sold in May 2014 for a price of \$325,000 which is above the estimated market value of the subject property based on its assessment of approximately \$298,818. Therefore, the Property Tax Appeal Board has given these arguments little merit because the appellants failed to present any substantive evidence indicating the subject's assessment was inequitable or incorrect on this basis.

Based on this record the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

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.