TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Sam B. McCaleb Dist. 5, Map 25G, Group A, Control Map 25G Parcel 2.00 Residential Property Tax Year 2005	)) Wilson County)))

INITIAL DECISION AND ORDER

Statement of the Case

The Wilson County Assessor of Property ("Assessor") valued the subject property for tax purposes as follows:

Land Value	Improvement Value	Total Value	Assessment
$125,000	$55,700	$180,700	$45,175

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on August 3, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on February 27, 2006 at the Wilson County Property Assessor's Office; present at the hearing was Sam B. McCaleb, the taxpayer, who represented himself, Jimmy Locke, the Wilson County Property Assessor and Jeff White and Kevin Woodard also from for the Wilson County Property Assessor's Office.

Findings of Fact and Conclusions of Law

The subject property consists of a single family residence located on 414 North Denny Rd. in Lebanon, Tennessee.

Mr. McCaleb stated that he had been on the property for thirty-three (33) years and that the property floods almost every four (4) years. Mr. McCaleb presented as collective exhibit number 1 photos of the property that showed significant flooding, he was not able to give specific dates for the flooding. He stated that he has no flood insurance and that while the land floods water has never gotten into his home only the basement. When asked by Mr. Locke what he felt his property was worth, he replied "I have no idea, you tell me". Mr. McCaleb said that he is not certain of the value for the land because he has no intention of selling it.

The basis of valuation as stated in Tennessee Code Annotated § 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values…."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible.[1] However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .
>
> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value.

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[1] Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001).

> . . . Final Decision and Order at 2. Moreover, the Assessment Appeals Commission has ruled that taxes are irrelevant to the issue of value. See *John C. & Patricia A. Hume*, (Shelby Co., Tax Year 1991).

After having reviewed all the evidence in this case; the administrative judge finds that the taxpayer has not sustained his burden and that the subject property should remain at the previously assessed values.

The most common approach for the determination of market value in the residential market is to use comparable sales of like property adjusted to the subject according by the generally accepted standards of practice for the industry.[2]

Since the taxpayer is appealing from the determination of the Wilson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The Taxpayer has not sustained his burden.

Order

It is, therefore, ORDERED that the following values remain for tax year 2005:

Land Value	Improvement Value	Total Value	Assessment
$125,000	$55,700	$180,700	$45,175

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case

[2] *The Appraisal of Real Estate*, (12th ed., 2001), pp. 417-448. Comparative analysis is the process by which a value indication is derived in the sales comparison approach. Compare comparable sale properties with the subject using elements of comparison and adjust the price of each comparable to the subject property or eliminate the sale property as a comparable.

Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 7th day of March, 2006.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DVISION

cc: Mr. Sam B. McCaleb, Taxpayer
Mr. Jimmy Locke, Wilson County Property Assessor's Office