BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	David B. & Karen S. Jones Map 130-12-0-A, Parcel 23.00CO Residential Property Tax Year 2005	)) Davidson County))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$275,000	$2,883,000	$3,158,000	$789,500

An appeal has been filed on behalf of the property owners with the State Board of Equalization. The appeal was timely filed on September 28, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated, §§ 67-5-1412, 67-5-1501 and 67-5-1505. A hearing was conducted on March 29, 2006 at the Davidson County Property Assessor's Office. Present at the hearing were Robert M. Parten, agent for the appellant, and Davidson County Property Assessor's representative's, Dennis Donovan and Jason Poling.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 4 Castle Rising in Nashville, Tennessee.

The taxpayer contends that the property is worth $2,150,000 based on "market data, sales comps indicate value". Mr. Parten's comparables showed only one of the homes used in the analysis with the square footage analogous to the subject. The subject property is unique in that it has 11, 251 square feet, more than any other property used. The other amenities, pool, landscaping and elevator, were all adjusted in the analysis.

Comparable 1 is the closest in square footage at 10,206 square feet. The other homes square footage was far less in area and value (pg. 10, exhibit #2).

The assessor contends that the property should be valued at $3,158,000.

The presentation by the taxpayer's representative shows that a lot of time and effort was put into preparing for this hearing. The taxpayer's exhibit (collective exhibit #2) shows that thoughtful planning and research were used in the compilation; however, the germane issue is the value of the property as of January 1, 2005.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is 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. . ."

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at $195,300 based upon the presumption of correctness attaching to the decision of the Davidson County Board of Equalization.

Since the taxpayer is appealing from the determination of the Davidson 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 administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the April 10, 1984 decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (State Board of Equalization) (Davidson County, Tax Years 1991-1992) holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and **equalized by application of the appropriate appraisal ratio**. . ." *Id.* at 1. (emphasis added)

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

> In contending the entire property should be appraised at no more than $60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more under appraised than average **does not entitle him to similar treatment**. Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not **adequately indicated how the properties compare to his own in all relevant respects**. . . . (emphasis added)

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were under appraised. . ." Final Decision and Order at 3.

While Mr. Parten does not allege that other properties are under appraised, he does argue that due to the uniqueness of the property, comparables should be limited to the Northumberland Gated Community. Mr. Donovan argues that there are other gated communities in Davidson County which have homes equivalent to the subject property.

With respect to the issue of market value, the administrative judge finds that Mr. Chrisman simply introduced insufficient evidence to affirmatively establish the market value of subject property as of January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

> To apply the sales comparison approach, an appraiser follows a systematic procedure.
>
> 1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
>
> 2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
>
> 3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
>
> 4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
>
> 5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.
>
> [Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). *Andrew B. & Marjorie S. Kjellin*, (Shelby County, Tax Year 2005).

Mr. Donovan argued that based on the wide discrepancies in square footage, comparable 2 and 3 should not be considered. The administrative judge agrees that the value shows too much of a discrepancy and Mr. Parten cannot explain to satisfaction of the administrative judge how he came up with the figures used for the adjustment.

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at $3,158,000 based upon the presumption of correctness attaching to the decision of the Davidson County Board of Equalization.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$275,000	$2,883,000	$3,158,000	$789,500

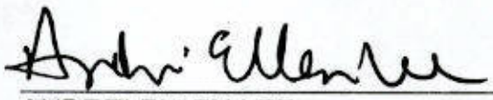
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

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 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 28th day of April, 2006.



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

c: Mr. Robert M. Parten
Jo Ann North, Assessor of Property