BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Philip K. Mabe	)
	Dist. 4, Map 119, Control Map 119, Parcel 15,	) Claiborne County
	S.I. 000	)
	Farm Property	)
	Tax Year 2007	)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

	LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
MKT.	$271,900	$55,600	$301,500	$ -
USE	$ 64,800	$29,600	$ 94,400	$23,600

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 19, 2007 in Tazewell, Tennessee. The taxpayer, Philip K. Mabe, represented himself and was assisted by his mother, Aileen Craft. The assessor of property was represented by staff member Judy Myers, and Brian Walker, TMA, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of 99 acres of farmland improved with a residence constructed in 1900, a pole barn and three sheds. Subject property is located at 1221 Lane Mountain Road in Tazewell, Tennessee. Subject property adjoins the Woodlake Golf Club.

The taxpayer contended that subject property should be valued at $130,000 as it was prior to the 2007 countywide reappraisal program.[1] In support of this position, the taxpayer argued that the 2007 reappraisal program caused the appraisal of subject property to increase excessively. In addition, the taxpayer asserted that the current appraisal of subject land does not achieve equalization because it has been appraised at more per acre than similar parcels in the area. Finally, the taxpayer testified that subject improvements are in poor physical condition.

The assessor contended that subject property should be valued at $388,200. In support of this position, the testimony and written analysis of Brian Walker, TMA was offered into evidence. Mr. Walker analyzed five vacant land sales which he maintained support a value indication of $358,578. With respect to subject improvements, Mr. Walker recommended no adjustments in value because of his inability to inspect subject property.

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

[1] Claiborne County last reappraised in 2002. Normally, the same appraisal remained in effect from 2002-2006.

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 the case, the administrative judge finds that the subject property should be valued at $296,800. As will be discussed below, the administrative judge finds that the appraisal of the pole barn should be reduced from $5,607 to $1,000. Absent additional evidence from the taxpayer, the administrative judge finds no further reductions in value warranted.

Since the taxpayer is appealing from the determination of the Claiborne 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 fair market value of subject property as of January 1, 2007 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. . . .

Final Decision and Order at 2. The administrative judge finds the Commission's reasoning equally applicable to appeals involving farmland. Respectfully, the administrative judge finds that the taxpayer did not introduce a single sale into evidence.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the

overall level of appraisal in the jurisdiction for the tax year in controversy.[2] The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

> The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

The administrative judge finds subject barn has minimal contributory value. The administrative judge finds that the photograph of the barn contained in exhibit #1 shows that the structure is in extremely poor physical condition.[3] Indeed, it appears that most, if not all, of the roof is no longer functional. The administrative judge cannot imagine Mr. Walker would have recommended retention of the current $5,607 appraisal had he been able to inspect subject property.

Notwithstanding the foregoing, it appears from the taxpayer's photograph that the barn is still being used and therefore has some contributory value. Absent additional evidence, the administrative judge finds that the barn should be valued at $1,000.

The administrative judge finds that just as the taxpayer has the burden of proof to support a reduction in value, the assessor has the same burden when seeking a higher value. Respectfully, the administrative judge finds that although Mr. Walker's analysis was most thorough and supports the appraisal of subject property, additional evidence is necessary to support a higher value. The administrative judge finds that four of the five vacant land sales used in Mr. Walker's analysis are much smaller than the subject (24.7, 32.53, 55 & 63.5 acres). It appears that the comparables have not been adjusted for size nor has a highest and best use analysis been made.

In the event this matter is appealed to the Assessment Appeals Commission, the administrative judge strongly recommends that the assessor inspect subject property to determine the condition of the residence. As noted at the hearing, the assessor should file an appropriate motion to secure an opportunity to inspect subject property in the event the parties are unable to agree on such a request through the discovery process.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

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[2] See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

[3] The administrative judge will assume that the condition of the barn was essentially the same on January 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

	LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
MKT.	$271,900	$24,900	$296,800	$ -
USE	$ 64,800	$24,900	$ 89,700	$22,425

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 27th day of September, 2007.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Philip Mabe
Ms. Aileen S. Craft
Kay Sandifer, Assessor of Property