2014 IL App (3d) 130813-U

Order filed October 16, 2014

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2014

LEA UPHUES,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Plaintiff-Appellee,	)	Will County, Illinois.
	)	
v.	)	
	)	
WILL COUNTY COLLECTOR,	)	
	)	Appeal No. 3-13-0813
Defendant,	)	Circuit No. 11-TX-358
	)	
and	)	
	)	
TROY COMMUNITY CONSOLIDATED SCHOOL DISTRICT 30-C,	)	The Honorable
	)	Barbara Petrungaro,
Intervenor-Appellant.	)	Judge, presiding.

JUSTICE CARTER delivered the judgment of the court.
Presiding Justice Lytton and Justice McDade concurred in the judgment.

ORDER

¶ 1 *Held*: In a case involving a tax objection filed by a property owner, the circuit court held that the property owner showed by clear and convincing evidence that her property had been overassessed for the 2010 tax year. The appellate court affirmed the circuit court's judgment, holding that the circuit court did not err when it: (1) denied the intervenor's motion to dismiss the complaint; (2) held that

the 2010 assessment of the subject property was incorrect; and (3) denied the intervenor's motion for a directed finding.

¶ 2 The plaintiff, Lea Uphues, filed a tax-objection complaint in which she challenged the defendant Will County Collector's 2010 assessment of her property. The defendant, Troy Community Consolidated School District 30-C, was allowed to intervene. After a hearing, the circuit court ruled in favor of Uphues and set the assessed value of her property at $125,000. The school district appealed, and now argues that the circuit court erred when it: (1) denied the school district's motion to dismiss the tax-objection complaint; (2) ruled that the county's 2010 assessment was incorrect; and (3) denied the school district's motion for a directed finding. We affirm.

¶ 3 FACTS

¶ 4 On November 15, 2011, Uphues filed her tax-objection complaint, which consisted in part of a pre-printed Will County Circuit Court form. Under the section in which the form asked for "[a] list of objected tax levies and the basis of each objection***(use a separate sheet if necessary)," the following was typed in: "TAX OBJECTION IS DIRECTED AT ASSESSED VALUE." Under the section in which the form asked for the specific nature of the objection, the following was written in: "Property is overassessed. Property should be assessed at $125,000." Filed with the form was a copy of Uphues's letter to the Will County Board of Review, in which she described the contents of the appeal packet she sent to that Board. Uphues also described the comparables she used in support of her claim that her property was overassessed, including the materials used in her house and some of the other houses, the improvement assessment amounts for her house and some of the other houses, and some examples of what she deemed to be inconsistent assessments of properties in her area.

¶ 5 The school district filed a motion to dismiss the tax-objection complaint pursuant to section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2010)), alleging that Uphues's claim that her property should be assessed at $125,000 was conclusory in that she failed to plead facts to support her claim. The circuit court denied that motion after hearing brief arguments, ruling that "I think there is sufficient information attached to get the facts for why they believe it is [an improper assessment]. Whether it's credible information or not is a different issue."

¶ 6 At the hearing on Uphues's complaint, Uphues testified that she owns the property at 710 Westshore Drive in Shorewood. She testified that she had a real estate license for one year—around 1990—and that she and her husband had operated a property development business for eight years around 1990-98. Their business built custom homes in Will and DuPage counties, including her Shorewood home. She stated that she kept the business's records, looked at blueprints, and ordered the building materials for homes. She had no experience or training in conducting real estate appraisals of existing properties.

¶ 7 Uphues described her home, which was on the DuPage River, as a four-bedroom, two-story home with a walk-out. It had 3½ baths and the lot was 104 feet by 286 feet. She described it as a "basic home." The exterior brick only covered the frame, so the brick was not load-bearing. Her home was on a river lot and had a basic driveway, two-car garage, a deck off the back, and a pool measuring 16 feet by 32 feet. The comparables form Uphues used that was admitted into evidence stated that her house was built in 1986, had a living area of 3,554 square feet, had four bedrooms, had a finished basement, and a garage. The property's 2010 assessment was listed as $35,030 for land and $130,196 for improvements, for a total of $165,226 and $37 per improvement square foot.

¶ 8 When she decided to challenge the 2010 assessment of her property, she sought help from both the Troy Township assessor's office and the county review office in Joliet. The Troy Township assessor's office told her she could only use three properties as comparables and that she had to draw from properties within one mile from her property.

¶ 9 Uphues testified that she did not find any properties that were similar to her home that had sold recently, other than 718 Westshore Drive. Uphues testified that the four comparables she used were: (1) 718 Westshore Drive; (2) 713 Westshore Drive; (3) 805 Cornell Court; and (4) 810 South Raven Road. She testified that she had been in all four of these homes and was familiar with all of their amenities.

¶ 10 Uphues stated that her first comparable, 718 Westshore Drive, was also on the DuPage River and was located three homes to the south of hers. The comparables form Uphues used stated that the home was a brick home built in 1988, had a living area of 3,588 square feet, had four bedrooms, had a finished basement, and had a garage. The property's assessment was listed as $35,030 for land and $89,970 for improvements, for a total of $125,000 and $25 per improvement square foot. Uphues testified to the following differences between that home and her home: (1) it had nine-foot ceilings on the main and second floors, while hers were eight feet; (2) it had 2-inch by 6-inch lumber construction, while hers was 2-inch by 4-inch lumber construction; (3) it had a 12/12 pitch roof, while hers was 8/12; (4) it had larger and more expensive windows that contained blinds in between the panes, while her windows were basic; (5) it had an arched window above a double-door entry, while she had a single-door entry; (6) it had a circular driveway as well as a standard driveway, while she had a two-car driveway; (7) it had an 18-foot by 36-foot pool[1] with a 10-foot diving area, while her pool was a non-diving pool

[1] She claimed that the property card incorrectly listed that pool as 16 feet by 32 feet.

of six-foot depth; (8) it had a stone and brick pool house, while her home did not have a pool house; (9) it had a fully finished basement with divided rooms and a walk-out, while her basement had a single-room finished walk-out; (10) it had a complete bathroom on the lower level, while her home had only a powder room on the lower level; (11) it had oak trim inside, while her home had pine trim; (12) it had a marble floor in the entry, while her home had a ceramic entry; (13) it had a driftwood stone fireplace, while her home had a basic brick fireplace; and (14) it had a two-story entry with a winding staircase, while her home had an eight-foot ceiling in the entry and normal staircase.

¶ 11 Uphues also testified that the property at 718 Westshore Drive sold in 2010 for $375,000. On cross-examination, she stated that she was not aware that the sale of that property in 2010 was a distressed sale. The owner had sold the property in June 2010 to a relocation company for $395,000, who then sold the property one month later for $375,000.

¶ 12 Uphues stated that her second comparable, 713 Westshore Drive, was not on the DuPage River, but was comparable in terms of improvements. That home was built by a builder for himself and had a number of upgrades. The comparables form Uphues used stated that the home was built in 1984, had a living area of 3,159 square feet, had five bedrooms, had a finished basement, and had a garage. The property's assessment was listed as $19,274 for land and $99,464 for improvements, for a total of $118,738 and $31 per improvement square foot. It was larger than her house, had nine-foot ceilings throughout, had larger bathrooms including a master bathroom that was three times bigger than hers, had a marble entry with a winding staircase, had built-ins, and had a semi-inground pool. The property sold in March 2011 for $332,000.

¶ 13 Uphues stated that her third comparable, 805 Cornell Court, was not on the DuPage River, but overlooked it and a park. She also stated that it had an identical floor plan to hers.

The comparables form Uphues used stated that the home was built in 1989, had a living area of 3,474 square feet, had a finished basement, and had a garage. The property's assessment was listed as $26,423 for land and $97,392 for improvements, for a total of $123,815 and $28 per improvement square foot. She testified that it had an added sunroom off the back, had a larger kitchen with a different cabinet configuration, had a finished walk-out, and had built-ins. On cross-examination, she stated that the home was a frame home with brick and stone in the front on both stories, while her home had an all-brick lower level and all-frame upper level. The property sold in September 2000 for $315,000.

¶ 14 Uphues stated that her fourth comparable, 810 Raven Road, was also on the DuPage River. She stated that it did not have a walk-out or pool, but was otherwise the same type of home as hers. The comparables form Uphues used stated that the home was built in 1989, had a living area of 3,510 square feet, had a finished basement, and had a garage. The property's assessment was listed as $23,854 for land and $103,638 for improvements, for a total of $127,492 and $30 per improvement square foot.

¶ 15 At the close of Uphues's case-in-chief, the school district moved for a directed finding. The school district argued that Uphues failed to meet her burden of proving the county assessor's assessment was incorrect. After arguments on the motion, the circuit court simply denied the motion.

¶ 16 Kimberly Anderson testified that she had been the Troy Township assessor since 2012 and had been working in the assessor's office since 2007. She stated that to determine 2010 values for properties, the assessor's office took three-year averages of sales from 2007-09. The 2010 value was set as of January 1, 2010; thus, any sales that took place after that date could not

be used to determine 2010 value. She testified that assessed values had been dropping since around 2007, and that the assessed value of a property is one-third of the property's market value.

¶ 17 An exhibit entered into evidence contained Anderson's market assessment. The market assessment evaluated four properties that had sold between 2007 and 2009, which Anderson chose because they were the closest sales to occur near Uphues's property. The first market-assessment property was located less than one mile from Uphues's property and sold in September 2009 for $425,000. It had five amenities that were of greater value than Uphues's property: (1) newer construction (1995); (2) more bathrooms (4½); (3) a larger living space (3,260 square feet); (4) a larger basement (2,346 square feet); and (5) a larger garage (768 square feet). It also had five amenities that were of lesser quality than Uphues's property: (1) a smaller lot (22,900 square feet), which was an interior lot; (2) no finished attic space; (3) no basement walk-out; (4) fewer fireplaces (one); and (5) an open-frame porch and deck, as opposed to the inground pool and deck on Uphues's property. It had a market value of $130.36 per square foot.

¶ 18 The second market-assessment property was located less than four miles from Uphues's property and sold in April 2009 for $479,000. It had two amenities that were of greater value than Uphues's property: (1) newer construction (1989); and (2) a larger garage (759 square feet). It also had eight amenities that were of lesser value than Uphues's property: (1) a smaller lot (29,740 square feet), which was on a creek; (2) a frame and brick construction; (3) a smaller living space (3,120 square feet); (4) no finished attic space; (5) a smaller basement (1,616 square feet); (6) no basement walk-out; (7) fewer fireplaces (one); and (8) an enclosed-frame porch and deck, as opposed to the inground pool and deck on Uphues's property. It had a market value of $153.53 per square foot.

¶ 19 The third market-assessment property was located less than four miles from Uphues's property and sold in May 2009 for $525,000. It had three amenities that were of greater value than Uphues's property: (1) newer construction (1989); (2) a larger living space (3,474 square feet); and (3) a larger garage (630 square feet). It also had six amenities that were of lesser value than Uphues's property: (1) a smaller lot (20,340 square feet), which was an interior lot; (2) a frame and brick construction; (3) less finished attic space (88 square feet); (4) a smaller basement (2,050 square feet); (5) a look-out but no basement walk-out; and (6) fewer fireplaces (one). It had a market value of $151.12 per square foot.

¶ 20 The fourth market-assessment property was located less than four miles from Uphues's property and sold in March 2007 for $540,000. It had five amenities that were of greater value than Uphues's property: (1) newer construction (1999); (2) more bathrooms (5½); (3) a larger living space (3,324 square feet); (4) a larger basement (2,377 square feet); and (5) a larger garage (762 square feet). It also had five amenities that were of lesser quality than Uphues's property: (1) a smaller lot (21,134 square feet), which was an interior lot; (2) a frame and brick construction; (3) no finished attic space; (4) no basement walk-out; and (5) no pool or deck. It had a market value of $162.45 per square foot.

¶ 21 The market assessment listed Uphues's property as having a market value of $495,678, or $158.52 per square foot (based on a living space of 3,127 square feet) and $139.47 per square foot (based on a living space of 3,554 square feet).

¶ 22 Anderson also testified with regard to the equity-assessment analysis performed by her office, which was admitted into evidence as part of an exhibit. That analysis contained four properties, which Anderson testified were "considered to be comparable in quality, size, construction, and especially setting." She stated that Uphues's house had a unique setting, given

its position on a ridge above the DuPage River, which rendered her property free of flooding threats. The properties used in the analysis all had this type of unique setting, although she stated that she had not been in any of the homes. Anderson also testified that equity value trumps market value.

¶ 23 The first property used in the equity-assessment analysis was 708 Westshore Drive. It had six amenities that were of higher value than Uphues's property: (1) a larger lot (45,500 square feet); (2) newer construction (1994); (3) more bathrooms (4½); (4) a larger basement (3,333 square feet); (5) a larger garage (910 square feet); and (6) an inground pool that was indoors, as opposed to the inground pool and deck of Uphues's property. It also had two amenities that were of lower value than Uphues's property: (1) no square feet of finished attic space; and (2) less square feet of finished basement space (1,402 feet). Its improvement assessment was $221,552 ($66.47 per square foot), and its total assessment was $256,081 ($76.83 per square foot).

¶ 24 The second property used in the equity-assessment analysis was 712 Westshore Drive. It had three amenities that were of higher value than Uphues's property: (1) newer construction (1988); (2) more bathrooms (4½); and (3) a larger garage (656 square feet). It also had five amenities that were of lower value than Uphues's property: (1) a smaller lot (36,190 square feet); (2) a smaller basement (1,775 feet); (3) no square feet of finished basement space and no walk-out; (4) fewer fireplaces (one); and (5) a deck and open-frame porch, as opposed to the inground pool and deck of Uphues's property. Its improvement assessment was $141,036 ($42.91 per square foot), and its total assessment was $176,066 ($53.56 per square foot).

¶ 25 The third property used in the equity-assessment analysis was 730 South Raven. It had three amenities that were of higher value than Uphues's property: (1) newer construction (1989);

(2) more bathrooms (3 full and 2 half); and (3) a larger garage (657 square feet). It also had five amenities that were of lower value than Uphues's property: (1) a smaller lot (28,040 square feet); (2) a frame construction, as opposed to the brick construction of Uphues's property; (3) no finished attic space; (4) a smaller basement (1,792 feet); and (5) a deck, as opposed to the inground pool and deck of Uphues's property. Its improvement assessment was $137,832 ($41.89 per square foot), and its total assessment was $168,578 ($51.24 per square foot).

¶ 26 The fourth property used in the equity-assessment analysis was 718 Westshore Drive. It had four amenities that were of higher value than Uphues's property: (1) newer construction (1988); (2) a larger living space (3,653 square feet); (3) a larger basement (2,153 square feet); and (4) a larger garage (656 square feet). It also had four amenities that were of lower value than Uphues's property: (1) a smaller lot (35,540 square feet); (2) no finished attic space; (3) less square feet of basement space (1,775 feet); (3) less square feet of finished basement space (1,267 square feet); and (4) fewer fireplaces (one). Its improvement assessment was $89,970 ($24.63 per square foot), and its total assessment was $125,000 ($34.22 per square foot).

¶ 27 With regard to these equity-assessment comparables, Anderson stated that the assessment value of Uphues's property fit within the range of assessment values of the first three properties. She said that because the homes in the area were custom homes, a wider range in the assessment values was more likely. Anderson testified that the assessment for 718 Westshore Drive was not given the same weight as arm's length sales due to concerns over whether the sale price actually reflected market value. She stated that the sale of 718 Westshore Drive for $375,000 was a "special circumstance" rather than an arm's length sale. She also testified that the assessor at the time accepted the sale price of $375,000 as the market value of the property and thus the assessed value of $125,000. The assessor at the time accepted these values after the property

owner appealed the property's 2010 assessment. Anderson further stated that Uphues's property and 718 Westshore Drive were comparable such that their assessed values should be approximately the same, and she admitted that, due to the accepted sale price of 718 Westshore Drive, that property and Uphues's property were not uniformly assessed.

¶ 28 Another exhibit submitted into evidence contained the corrections of Uphues's comparables as completed by the assessor's office. With regard to Uphues's property, the corrected form listed it as having a lot size of 37,240 square feet, 3½ baths, a finished walk-out in the basement, two fireplaces, a deck, and a 720-square foot inground pool. The corrected form also listed two different values for the amount of living area—3,554 square feet and 3,127 square feet. According to Anderson's testimony, the difference between the two values was due to finished attic space. The corrected form also listed the following assessment values: $41.64 per improvement square foot (based on a 3,127-square foot living area), $46.50 per square foot for the total assessment (based on a 3,554-square foot living area), and $52.84 per square foot for the total assessment (based on a 3,127-square foot living area).

¶ 29 With regard to the property at 718 Westshore Drive, the corrected form listed it as having a lot size of 35,540 square feet, a living area of 3,653 square feet, 2½ baths, a fully finished basement, one fireplace, a deck, a 512-square foot inground pool, and a value of $34.22 per square foot for the total assessment. The corrected form also listed the property as being sold in July 2010.

¶ 30 With regard to the property at 713 Westshore Drive, the corrected form listed it as having a lot size of 25,870 square feet, a frame construction with brick trim, 2½ baths, a finished basement with part crawl, one fireplace, and a deck. The corrected form also listed the assessment value as $34.74 per improvement square foot.

¶ 31 With regard to the property at 805 Cornell Court, the corrected form listed it as having a lot size of 15,575 square feet, a frame construction with stone trim, 2½ baths, a living area of 2,850 square feet, a finished walk-out in the basement, two fireplaces, and a deck. The corrected form also listed the assessment values as $34 per improvement square foot and $43 per square foot for the total assessment.

¶ 32 With regard to the property at 810 Raven Road, the corrected form listed it as having a lot size of 21,490 square feet, a frame construction, 4 baths, a living area of 3,268 square feet, a finished basement with part crawl, one fireplace, and a deck. The corrected form also stated that the home was built in 1988, and it listed the assessment values as $32 per improvement square foot and $39 per square foot for the total assessment.[2]

¶ 33 At the close of the hearing, the circuit court took the matter under advisement. The court issued its written decision on October 16, 2013. After discussing at length the evidence presented at the hearing, the court found that 718 Westshore Drive was the property most comparable to Uphues's property. The court stated, "[t]he sale of [718 Westshore Drive] was not considered an outlier by the Troy Township Assessor and was an accepted valid sale." The court ruled that Uphues had met her burden of showing that her property was overassessed for 2010, and, as such, the court set the property's 2010 assessment at $125,000. The school district appealed.

¶ 34 ANALYSIS

¶ 35 The school district's first argument on appeal is that the circuit court erred when it denied its motion to dismiss the tax-objection complaint. Specifically, the school district contends that

[2] Uphues did not dispute the accuracy of these assessment values per square foot from the properties at 713 Westshore Drive, 805 Cornell Court, and 810 Raven Road, and we take no position on the accuracy of these values.

the complaint was deficient in that it stated in a conclusory fashion that her property should have been assessed at $125,000.

¶ 36 A motion to dismiss filed pursuant to section 2-615 of the Code admits all well-pled facts and alleges that the complaint is legally insufficient. *Taylor v. Frey*, 406 Ill. App. 3d 1112, 1115 (2011). Such a motion should be granted if it is clear that no set of facts could be proven that would entitle the complainant to its requested relief. *Nelson v. Quarles and Brady, LLP*, 2013 IL App (1st) 123122, ¶ 27. "All facts apparent from the face of the pleadings, including the exhibits attached thereto, must be considered." *Green v. Rogers*, 234 Ill. 2d 478, 491 (2009). We review the circuit court's ruling on a section 2-615 motion to dismiss under the *de novo* standard. *Id.*

¶ 37 Section 23-15(a) of the Property Tax Code provides that "[t]he complaint shall name the county collector as defendant and shall specify any objections that the plaintiff may have to the taxes in question." 35 ILCS 200/23-15(a) (West 2010); see also 35 ILCS 200/23-10 (West 2010) (stating, in relevant part, that in counties with less than 3,000,000 inhabitants, "[a]ny complaint or amendment thereto shall contain (i) on the first page a listing of the taxing districts against which the complaint is directed and (ii) a summary of the reasons for the tax objections set forth in the complaint***"). The Property Tax Code states nothing further with regard to allegations required to state a tax-objection cause of action. 35 ILCS 200/1-1 *et seq.* (West 2010); *In re Anderson*, 313 Ill. App. 3d 578, 581 (2000).

¶ 38 In this case, Uphues used the tax-objection complaint form provided by the Will County Circuit Court. She stated that she was challenging the assessment of her property, and the letter she attached to the complaint detailed some of her objections to the assessment of her property, including statements related to the materials used in her house versus her comparables, the improvement assessment amounts of her property versus her comparables, and other reasons she

believed the assessments in her neighborhood were inconsistent. As the circuit court noted, the credibility of those details was not at issue at that stage of the proceedings. See *Nelson*, 2013 IL App (1st) 123122, ¶ 27 (noting that a complainant is not required to prove its case at that pleading stage). Under these circumstances, we hold that Uphues's complaint was sufficient to survive the school district's section 2-615 motion to dismiss.

¶ 39 The school district's second argument on appeal is that the circuit court erred when it ruled that the county's 2010 assessment was incorrect.

¶ 40 In a tax-objection proceeding, "[t]he taxes, assessments, and levies that are the subject of the objection shall be presumed correct and legal, but the presumption is rebuttable. The plaintiff has the burden of proving any contested matter of fact by clear and convincing evidence." 35 ILCS 200/23-15(b)(1) (West 2010). Clear and convincing evidence has been defined by our supreme court as requiring more than is required by the preponderance-of-the-evidence standard, but not quite as much as what is required for proof beyond a reasonable doubt. *In re D.T.*, 212 Ill. 2d 347, 362 (2004).

¶ 41 Section 23-15(b)(3) of the Property Tax Code provides:

> "Objections to assessments shall be heard de novo by the court. The court shall grant relief in the cases in which the objector meets the burden of proof under this Section and shows an assessment to be incorrect or illegal. If an objection is made claiming incorrect valuation, the court shall consider the objection without regard to the correctness of any practice, procedure, or method of valuation followed by the assessor, board of appeals, or board of review in making or reviewing the assessment, and without regard to the intent or motivation of any assessing official." 35 ILCS 200/23-15(b)(3) (West 2010).

Our supreme court has clarified that "[t]he phrase 'heard de novo' is used in section 23-15 to indicate that evidence may be presented in the circuit court and that the tax objection proceedings are not an appeal on the record from the board of appeals or review." *People ex rel. Devine v. Murphy*, 181 Ill. 2d 522, 535 (1998). In holding that section 23-15 does not violate separation-of-powers principles, our supreme court also emphasized that "[s]ection 23-15 mandates that deference be given to the tax assessment adopted by the board of review or appeals." *Devine*, 181 Ill. 2d at 534. On review, we will not disturb the circuit court's decision unless it is against the manifest weight of the evidence. See *In re Application of Rosewell*, 286 Ill. App. 3d 814, 821 (1997).

¶ 42 In this case, the circuit court received evidence from both Uphues and Anderson regarding the 2010 assessment of Uphues's property. Uphues presented evidence on four similar properties from her subdivision. She had been in all four of the homes on those properties and she was familiar with the amenities of all four homes. In particular, Uphues presented substantial testimony on the property at 718 Westshore Drive, which was located on the DuPage River three lots south of Uphues's property. Anderson, the current Troy Township assessor, testified that she reviewed the 2010 assessment of Uphues's property and that she found the assessment to be within acceptable limits. Anderson testified that equity value trumps market value, and her equity assessment contained four similar properties from the area near Uphues's property. She had not been in any of the homes on these properties; three of the four homes she chose were different from the ones chosen by Uphues. The one common property was 718 Westshore Drive, which Anderson's equity assessment listed as having four amenities each of greater and lesser value than Uphues's property. Anderson also testified that given the similarities between Uphues's property and 718 Westshore Drive, those two properties should

have similar assessed values. Significantly, she also admitted that due to the $375,000 accepted sale price of 718 Westshore Drive, that property and Uphues's property were not uniformly assessed, which she acknowledged is required by the Illinois Constitution (see Ill. Const. 1970, art. IX).

¶ 43 Of all of the properties on which the circuit court received evidence, the court found that 718 Westshore Drive was the property most similar to Uphues's property, and our review of the record reveals no error in that finding. The overarching issue with 718 Westshore Drive was its sale in 2010 by a relocation company for $375,000. While Anderson testified that this sale was not considered to be of the same credibility as arm's length sales, she also admitted that her predecessor accepted that sale price as a valid sale of the property, thereby setting the 2010 assessment of 718 Westshore Drive as $125,000 after an appeal was filed by the property owner. As the circuit court noted, the July 2010 sale of 718 Westshore Drive was not an outlier, as suggested by Anderson. Thus, given that sale price and the similarities between 718 Westshore Drive and Uphues's property, the circuit court ruled that Uphues met her burden such that the proper 2010 tax assessment of her property was $125,000. Under the circumstances of this case, we cannot say that the court's ruling was against the manifest weight of the evidence.

¶ 44 The school district's third argument on appeal is that the circuit court erred when it denied the school district's motion for a directed finding.

¶ 45 Initially, we note that the school district argues in this regard that Uphues failed to establish a *prima facie* case and that the circuit court's denial of the motion for a directed finding is subject to *de novo* review. For the following reasons, the school district's arguments are misplaced.

¶ 46 At the close of the plaintiff's case in a nonjury trial, the defendant may move for a finding or judgment in his or her favor. 735 ILCS 5/2-1110 (West 2010). When ruling on a motion for a directed finding, the circuit court must employ a two-prong analysis. *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 275-76 (2003). In the first step, the court determines as a matter of law whether the plaintiff has established a *prima facie* case by presenting evidence on every essential element of the cause of action. *Id.* at 275. If the court determines that the plaintiff has in fact established a *prima facie* case, the court moves to the second step in which it considers the totality of the evidence, including any evidence that is favorable to the defendant. *Id.* at 275-76. The court does *not* view the evidence in the light most favorable to the plaintiff under section 2-1110. *Id.* at 276. In this second step, if the court determines that sufficient evidence exists to establish the plaintiff's *prima facie* case, the court should deny the defendant's motion for a directed finding. *Id.* We will not disturb a circuit court's second-step ruling unless it is against the manifest weight of the evidence. *Id.*

¶ 47 Viewing the circuit court's decision under the proper standard of review, our review of the record in this case reveals no error in the court's denial of the school district's motion for a directed finding. Uphues presented evidence on her home and property and on four comparable homes and properties in her subdivision. She testified with regard to the amenities and the types of materials used in the homes. In particular, she presented evidence on her property as compared to 718 Westshore Drive, which had sold in mid-2010 for $375,000 and which therefore had a $125,000 assessment for 2010. She was seeking the same assessment for her property for 2010. The school district advances no argument as to any alleged error in the court's second-step determination on the motion for a directed finding, and we have found nothing in the

record to indicate that determination was against the manifest weight of the evidence. Under these circumstances, we hold that the court's denial of the school district's motion was proper.

¶ 48 Lastly, we note that Uphues has attempted to raise an argument that the circuit court erred when it allowed the school district's motion to intervene. However, because Uphues did not file a cross-appeal in this case, the issue is not properly before this court and we therefore decline to address it on the merits. See *Martis v. Grinnell Mutual Reinsurance Co.*, 388 Ill. App. 3d 1017, 1024 (2009).

¶ 49 CONCLUSION

¶ 50 The judgment of the circuit court of Will County is affirmed.

¶ 51 Affirmed.