

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: MJM Limited Partnership  
DOCKET NO.: 05-00196.001-C-2  
PARCEL NO.: 14-21-301-002

The parties of record before the Property Tax Appeal Board are MJM Limited Partnership, the appellant, by attorney Clyde B. Hendricks of Peoria, Illinois; and the Peoria County Board of Review.

The subject property consists of a 5.52 acre parcel improved with three, one-story commercial buildings with 62,001 square feet of building area. The subject property is of concrete block construction with central air conditioning, a ceiling height of 12 feet and is used as a retail strip shopping center. The buildings were constructed in 1973 and are approximately 32 years old. The property is located in the City of Peoria Township, Peoria County.

The appellant contends assessment inequity in the improvement assessment as the basis of the appeal. In support of this argument the appellant presented an assessment analysis prepared by Vivian E. Hagaman. Hagaman testified she has experience as a broker, appraiser and a certified assessor. She testified that she has been in this business for 10 years.

Hagaman prepared an assessment analysis, Appellant's Exhibit No. 1, using four equity comparables. The data used in her analysis was taken from the property record cards for the subject and the comparable properties. She indicated that the equity comparables were adjusted in relation to the subject for grade as well as for condition, desirability and utility (CDU). She testified that using CDU is an attempt to relate loss in value due to condition, desirability and utility. She indicated that condition relates to actual age versus effective age, desirability focuses on the economic obsolescence and utility focuses on functional obsolescence. She further explained her analysis dealt only with the improvement assessment and not the land. Her report contained copies of the property record cards for the subject and the comparables from the township assessor's Computer Assisted Mass Appraisal (CAMA) records. She also provided copies of photographs for the subject and the comparables.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Peoria County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	306,900
IMPR.:	\$	608,320
TOTAL:	\$	915,220

Subject only to the State multiplier as applicable.

Her analysis indicated the subject improvement had a market value as reflected by its assessment of \$29.43 per square foot of building area. Hagaman's analysis indicated the comparables ranged in size from 40,000 to 91,556 square feet of building area. Hagaman's grid analysis indicated the comparables were constructed from 1960 to 1993 for an average of 1977. The comparables had CDUs ranging from 50% to 77% for an average of 64%. The comparables had grades ranging from C-05 to C+10 for an average of C+10. She indicated the comparables had improvement assessments reflecting market values ranging from \$12.69 to \$33.17 per square foot of building area resulting in an average market value of \$26.15 per square foot of building area. The witness indicated the comparables had grade adjustments ranging from \$12.09 to \$31.59 per square foot for a weighted average of \$24.91 per square foot. The witness indicated the comparables had CDU adjustment values ranging from \$11.47 to \$25.64 for a weighted average of \$21.88 per square foot. Based on this analysis, the appellant requested the subject's improvement assessment be reduced to \$7.29 per square foot of building area, reflecting a market value of \$21.88 per square foot, or \$452,190.

She testified that she placed most weight on comparable 4. This property was improved with a shopping center with 91,556 square feet of building area that was constructed in 1993. According to Hagaman's analysis this comparable had an improvement assessment that reflected a market value of \$32.46 per square foot of building area.

Under cross-examination Hagaman testified the data she used was from taken from the property record cards. She also testified that comparable number 3 at Candletree Center is now used as a church. When she inspected this property in 2005 the building was being remodeled. She testified the report she submitted did not have the values of the comparables that were used to arrive at her calculations. The witness agreed that the subject property is a strip center. She testified comparable 1 has office, retail and warehouse area, comparable 2 has a bank, but basically all the comparables are retail strips. Hagaman also testified her fee was contingent on the outcome of the appeal.

The next witness called by the appellant was David Maloof. Maloof is a commercial real estate broker and is in the real estate development business. The witness testified that he has been in the business for over 30-years and stated that his firm has the largest market share of commercial industrial listings in Peoria.

He testified that he has been in all the comparables used by Hagaman. He testified comparable 1 is part warehouse, comparable 2 has a higher grade, comparable 3 is a two-story building with a higher CDU and comparable 4 has a higher CDU and was built in 1993.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$915,220 was disclosed. The subject had an improvement assessment of \$608,320 or \$9.81 per square foot of building area. To demonstrate the subject was equitably assessed, the board of review submitted assessment information on three comparables. The comparables were improved with from two, three or four one-story commercial buildings. The comparables ranged in size from 61,992 to 83,301 square feet of building area and were of concrete block construction. The buildings ranged in age from 14 to 30 years old. These properties had improvement assessments ranging from \$624,360 to \$1,438,610 or from \$10.07 to \$17.48 per square foot of building area.

The board of review chairman, Michael Fortune, testified that the data for the subject and the comparables was taken from the property record cards.

The next witness called on behalf of the board of review was Max Schlafley, Peoria Township Deputy Assessor. He testified about the property record cards contained in the record and explained that the CDU factors may be blended due to various ages of the buildings on the properties.

Hagaman was called as a rebuttal witness. She testified that no adjustments were made to the board of review comparables for such items as CDU and grade. She was of the opinion these comparables would need to be adjusted to account for differences from the subject. She noted that board of review comparable 3 had a ceiling height of 17 feet whereas the subject had a ceiling height of 12 feet.

Mr. Maloof was also called as a rebuttal witness and testified about the board of a review's comparables by pointing out some were newer than the subject.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject's assessment is not supported by the evidence in the record.

The appellant contends assessment inequity in the improvement assessment as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 544 N.E.2d 762, 136 Ill.Dec. 76 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data submitted by the parties, the Board finds a reduction to the subject's improvement assessment is not warranted.

Initially, the Board gives little weight to Hagaman's analysis and conclusion. First, Hagaman testified her fee was contingent on the outcome of the appeal. The Property Tax Appeal Board finds the fact the appellant's opinion witness' fee is contingent on the tax savings undermines her objectivity to give unbiased opinion testimony and detracts from the credibility of her analysis. Second, the Board finds that Hagaman's analysis was based on general subjective characteristics of the buildings such as grade and CDU. The Board finds that this type of analysis does not adequately consider the physical characteristics of the individual buildings such as age, size, ceiling height, type of construction and features to make a meaningful analysis of the similarity of the comparable properties to the subject property.

As stated by the Supreme Court of Illinois in Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 544 N.E.2d 762, 136 Ill.Dec. 76 (1989):

[T]he cornerstone of uniformity is the fair cash value of the property in question. . . . [U]niformity is achieved only when all property with the same income-earning capacity and fair cash value is assessed at a consistent level.

Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d at 21, 544 N.E.2d at 772. In this appeal the appellant failed to demonstrate the comparables and the subject had similar fair cash values but were assessed at substantially lesser or greater proportions of their fair cash values.

In the absence of evidence demonstrating the comparables and the subject have similar fair cash values, the Property Tax Appeal Board will examine the physical characteristics of the subject and the comparables to determine if the buildings are sufficiently similar so as to be indicative of assessment inequity. A review of the comparables disclosed that those most similar to the subject in size and one-story style included the appellant's comparables 2 and 4 and the three comparables submitted by the board of review. These five comparables were one story buildings of brick/stone, brick/concrete block or concrete block exterior construction that ranged in size from 61,992 to 91,556 square feet of building area. Each of these comparables had central air conditioning, the comparables had wall heights ranging from 12 to 22 feet and were constructed from 1961 to 1993. These comparables had improvement assessments that ranged from \$10.07 to \$17.48<sup>1</sup> per square foot of building area. The Board finds the most similar comparable in the record is board of review comparable 3 with an improvement assessment of \$624,360 or \$10.07 per square foot of building area. The subject has an improvement assessment of \$608,320 or \$9.18 per square foot of building area, which is below the range established by the most similar comparables.

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<sup>1</sup> The improvement assessment for each of the appellant's comparables was calculated by multiplying the market value per square foot by .3333.

In conclusion, after considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's improvement assessment is not warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



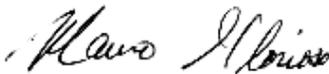
Chairman



Member



Member



Member



Member

DISSENTING: \_\_\_\_\_

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: June 19, 2009



Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of 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.