

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: H. Roderick Heard
DOCKET NO.: 05-01347.001-R-3 and 05-01347.002-R-3
PARCEL NO.: 16-03-402-012 and 16-03-402-013

The parties of record before the Property Tax Appeal Board are H. Roderick Heard, the appellant, by attorney Mendy Pozin, in Northbrook, and the Lake County Board of Review.

The subject property consists of two unimproved residential parcels on Lake Michigan. Parcel 16-03-402-012 contains 118,908 square feet and parcel 16-03-402-013 contains 85,616 square feet. The subject is located in Lake Forest, Moraine Township, Lake County.

Prior to a hearing requested by the appellant, the parties agreed to have the Property Tax Appeal Board make its decision based on the evidence in the record and that a hearing was unnecessary. Through his attorney, the appellant submitted evidence to the Property Tax Appeal Board claiming unequal treatment in the assessment process regarding the subject's land assessment and contention of law as the bases of the appeal. In support of the land inequity argument, the appellant submitted a letter and a list of 42 comparable properties, some of which contain two or three parcels. In the letter, the appellant argued "A problem has arisen when a property consists of more than a single parcel." The appellant claimed the Moraine Township Assessor's assessment software program fails to recognize common ownership of contiguous parcels which are considered as one potential building lot, and should treat parcels adjacent to what might be called primary parcels as excess land, rather than as separate, buildable lots. The appellant further contends any "area beyond that base size should be assessed at the reduced market value per the assessor's schedule for that neighborhood." The appellant argued his "list of properties in the subject township that have had their excess land assessments adjusted based upon the aggregate land area of their contiguous commonly-owned parcels." The appellant submitted no information regarding the land area or

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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 Lake County Board of Review is warranted. The correct assessed valuation of the property is:

<u>DOCKET NO.</u>	<u>PROPERTY NO.</u>	<u>LAND</u>	<u>IMPR.</u>	<u>TOTAL</u>
05-01347.001-R-3	16-03-402-012	\$1,203,306	\$0	\$1,203,306
05-01347.002-R-3	16-03-402-013	\$1,125,169	\$0	\$1,125,169

Subject only to the State multiplier as applicable.

lot sizes of the 42 comparables, nor did he supply the comparables' land assessments.

The appellant acknowledged as appropriate the assessment formula used by the assessor to value lakefront lots in the subject's neighborhood, which assigns a land market value of \$50 per square foot for the first 65,000 square feet of tableland¹, \$10 per square foot for any tableland over 65,000 square feet and \$5 per square foot for non-tableland "bluff". He claims the aggregate tableland for the two contiguous, commonly-owned subject parcels exceeds 65,000 square feet and parcel 16-03-402-013 should have an estimated market value composed of 69,553 square feet of tableland at \$10 per square foot for a total of \$695,530 and 16,063 square feet of bluff at \$5 per square foot, resulting in a total for the parcel of \$775,845. From this, the appellant estimates the land assessment of parcel 16-03-402-013 should be \$258,589.

Regarding the contention of law issue, the appellant argued he was not given sufficient opportunity to respond to a notice of assessment change issued by the board of review. The appellant's letter stated that the Lake County Supervisor of Assessments published an assessment roll which included assessment information for each of the properties located in Moraine Township on November 17, 2005. Taxpayers were then afforded a thirty day period after such publication to file an appeal with the board of review. However, the appellant claims that subsequent to the above publication of assessments, the board of review "unilaterally revised the assessments for lakefront properties in that township. Notice was sent via mail to the affected property owners on 1/24/06."

The appellant contends these revised assessments for lakefront properties were not published as required by law, but that the change "was promulgated via the 1/24/06 correspondence only." Owners of the affected lakefront properties were told in the board of review's letter regarding the revised lakefront assessments that if they wanted an "opportunity to contest this valuation change by having a hearing before the Board of Review, you must contact this office by Monday, February 6, 2006." The appellant argued this thirteen day window to initiate the appeal process by owners of lakefront property, as opposed to the 30-day period afforded all taxpayers in the township, effectively denied the appellant equal protection and due process. Because of this purported irregularity in the notification process, he requested the assessment of parcel 16-03-402-012 be reduced to \$1,118,844. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of

¹ Tableland is understood to be relatively level land suitable for construction of a dwelling.

\$2,328,475 was disclosed. In support of the subject's assessment, the board of review submitted a response to the appellant's legal contention, a letter that details the methodology used to assess land in the subject's neighborhood, property record cards and a grid analysis of three comparable properties located in the subject's Moraine Township lakefront neighborhood. The comparables consist of two, two-parcel properties and one, three-parcel property that have contiguous ownership and Lake Michigan frontage. The board of review's comparable one, like the subject, has two lots "that were each buildable and thus assessed separately and not as an assemblage." The first parcel of this comparable property contains 81,581 square feet of tableland and 23,486 square feet of bluff. Using the aforementioned formula, this parcel has an estimated market value of \$3,533,240 and a land assessment of \$1,177,629, or \$11.21 per square foot of land area. Comparable one's second parcel has 67,578 square feet of tableland and 19,701 square feet of bluff. The formula develops an estimated market value of \$3,374,285 and a land assessment of \$1,124,649, or \$12.89 per square foot.

The board of review's comparable two is comprised of three contiguous parcels. The first parcel was not considered separately buildable and was thus "assessed as part of an assemblage" with the second parcel. These two parcels had a combined 62,758 square feet of tableland and 34,986 square feet of bluff, with an estimated market value of \$3,312,830 and a land assessment of \$1,104,166, or \$11.30 per square foot, combined. This comparable property's third parcel had 49,429 square feet of tableland and 27,110 square feet of bluff, with an estimated market value of \$2,607,000 and a land assessment of \$868,913, or \$11.35 per square foot.

The board of review's comparable three is comprised of two contiguous parcels, and like the subject, has two lots "that were each buildable and thus assessed separately and not as an assemblage." The first parcel of this comparable property contains 25,859 square feet of tableland and 14,425 square feet of bluff. Using the aforementioned formula, the parcel has an estimated market value of \$1,365,075 and a land assessment of \$454,979 or \$11.29 per square foot of land area. Comparable three's second parcel has 55,887 square feet of tableland and 20,062 square feet of bluff. The formula develops an estimated market value of \$2,894,660 and a land assessment of \$964,790, or \$12.70 per square foot.

The board of review's uniformity grid further depicts the subject property's parcel one contains 83,148 square feet of tableland and 35,760 square feet of bluff. The formula develops an estimated market value for this parcel of \$3,610,280 and a land assessment of \$1,203,306, or \$10.12 per square foot. The subject's comparable two contains 69,553 square feet of tableland and 16,063 square feet of bluff. The formula develops an

estimated market value of \$3,375,845 and a land assessment of \$1,125,169, or \$13.14 per square foot.

The board of review's letter explains why the lakefront properties in the subject's neighborhood were reevaluated. The board of review found "inconsistencies in the treatment of properties with respect to land valuation." "The determination of the size of the tableland and steep slope for each parcel was done by the Lake County's GIS department at the request of the board of review. Staff reviewed multiple parcel properties as separate properties and as assemblages to ensure that the model being applied would not adversely affect larger parcels." The board of review's letter further claims the appellant's list of 42 multi-parcel comparables "does not include the critical property characteristics and details of the various assessments. These characteristics are essential in determining the comparability of the properties and whether or not these are separate buildable sites like the subject's parcels."

Responding to the appellant's legal contention, Lake County Assistant State's Attorney Karen D. Fox prepared a brief. Fox contends the revisions to lakefront properties with multiple parcels in Moraine Township "were not required by law to be published. (emphasis in original)" Fox cited Section 16-30 of the Property Tax Code (35 ILCS 200/16-30) where it states:

At the meeting, the board of review upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just. The assessment of the property of any person shall not be increased unless that person or his or her agent first has been notified in writing at the address that appears on the assessment books, and been given an opportunity to be heard.

The assistant state's attorney claimed this statutory language "imposes no publication requirement on the LCBOR", and that the appellant cited "no other authority to support his argument that publication was required." Regarding the appellant's claim that his equal protection and due process rights had been violated, Fox claimed the board of review's January 24, 2006 letter contained no language requiring the appellant to file a complaint or attend a hearing by February 6, 2006. Fox observed "All that was required on or before that date was that the Appellant contact the Clerk of the LCBOR in order to set up a hearing." Fox concluded her brief by observing that Section 16-30 places no 30-day requirement on an individual's opportunity to be heard and that the appellant's due process rights were not violated. Based on this evidence, the board of review requested the subject's assessment be confirmed.

After reviewing the record 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 Property Tax Appeal Board further finds that a reduction in the subject's assessment is not warranted. The appellant's argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

Regarding the subject's land assessment, the Board finds the appellant submitted a list of 42 comparables, but failed to include the critical lot sizes, property characteristics and details of the various assessments. The board of review contends "These characteristics are essential in determining the comparability of the properties and whether or not these are separate buildable sites like the subject's parcels." The Property Tax Appeal Board finds merit in this argument. For this reason, the Board gave less weight to the appellant's comparables. The board of review submitted an analysis of three comparables located in the same assessor's assigned neighborhood code as the subject. The board of review's comparables were similar to the subject in that they had two or three contiguous parcels, lakefront access, tableland and bluff land areas. Six of the seven parcels were separately buildable, and they had been reassessed, like the subject and other lakefront properties, using a uniform land methodology. These comparables had land assessments ranging from \$11.21 to \$12.89 per square foot. The subject's land assessment of \$13.14 for parcel 16-03-402-013 is slightly above this range, but the board of review explained that is "due to differences in the tableland to bluff land ratio." Therefore, the Board finds the evidence in the record supports the subject's assessment.

As to the appellant's legal argument that his right to due process and opportunity to be heard regarding the reassessment of the subject's land had been violated, the Property Tax Appeal Board finds the appellant was notified by a letter dated January 24, 2006 that he was to contact the board of review's office by February 6, 2006 to arrange a time for a hearing regarding the reassessment. The appellant contends this violated statutes regarding publication of assessment changes and that his due process rights had also been violated. The Board finds Section 16-30 of the Property Tax Code (35 ILCS 200/16-30) states:

At the meeting, the board of review upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just. The assessment of the property of any person shall not be increased unless that person or his or her agent first has been

notified in writing at the address that appears on the assessment books, and been given an opportunity to be heard.

The Property Tax Appeal Board finds no language in this statute that a certain time period is required, only that the taxpayer be notified in writing, which was done. It is clear from the record that the appellant was notified in writing and that the board of review's January 24, 2006 letter only established a deadline for the appellant to contact the board of review to schedule a hearing at some future date. The Board finds the following language is relevant:

The law is settled that notice to the property owner is jurisdictional, and must precede any change or reassessment of property after an assessment thereof has once been made. The notice to the taxpayer must strictly conform to the requirements of the statute, and such notice only binds him as to the description and character of the property mentioned in the notice.
[citations omitted]

People ex rel. Rea v. Nokomis Coal Co., 308 Ill. 45, 50-51, 139 N.E. 41 (1923). The notice issued herein identified the parcel number of the subject property and advised that [could request a hearing] Therefore, the Board finds the appellant was given sufficient and proper notice to avail himself of the opportunity of a hearing and that his right to due process was not violated.

In summary, the Property Tax Appeal Board finds the appellant has failed to prove unequal treatment in the assessment process by clear and convincing evidence and further, that his legal argument is unfounded. The appellant was given proper notice regarding the board of review's reassessment, using a uniform method, of the subject and all lakefront lots in the subject's neighborhood. The Board further finds his due process rights were protected through the board of review's offer for the appellant to request a hearing.

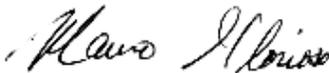
This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



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: August 24, 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.