

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Leonard Cahmann  
DOCKET NO.: 05-01390.001-R-1  
PARCEL NO.: 16-10-416-010

The parties of record before the Property Tax Appeal Board are Leonard Cahmann, the appellant, and the Lake County Board of Review.

The subject property consists of a one-story brick condominium unit that contains 3,025 square feet of living area. The unit is located in a building that was originally built in 1895. The building was originally constructed for use as an artillery stable on a military base. However, the entire building was completely renovated in 2000 and improved with five condominium units. The property features two and one-half bathrooms, central air conditioning, one fireplace, and a two-car garage.

The appellant submitted documentation before the Property Tax Appeal Board claiming the subject's property is overvalued based on an appraisal (Exhibit B); the subject property is inequitably in comparison to the other four units contained in the subject's condominium building; and the subject's assessment is incorrect based on a contention of law. However, the appellant did not raise any legal issues or submit a legal brief citing applicable statutes or case law that would suggest the subject's assessment is incorrect based on a contention of law. (86 Ill.Ad.Code §1910.30(h)) and §1910.65(d)). The appellant also submitted a letter explaining the appeal and various exhibits.

The appellant, who is an attorney, appeared before the Property Tax Appeal Board. The appellant first presented Exhibit A, which is one page of a condominium declaration that purportedly shows the unit designations and percentage of ownership interest for each of the five units within the subject's condominium building. The appellant attempted to submit the entire unsigned document with no recording date at the hearing. The subject unit (center

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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:

LAND:	\$	26,195
IMPR.:	\$	165,000
TOTAL:	\$	191,195

Subject only to the State multiplier as applicable.

interior unit) was reported to own 19.1851% of the condominium; the neighboring units were reported to own 18.8455% of the condominium; and the end units were reported to own 21.5619% and 21.5620% of the condominium, respectively. The appellant argued the original sale prices from 2000 or 2001 for each unit establishes the building's market value of \$2,945,000. The appellant argued the township assessor used the original sales data and the percentage of ownership allocation method to revise all five units' assessments in 2004. (See charts 1 and 2). In essence, the appellant argued the market value of the subject's condominium building as a whole should be established with the percentage of ownership for each unit applied to establish a fair value and equitable assessment for each unit.

Exhibit B is an appraisal of the subject property that estimated a fair market value for the subject property to be \$560,000 as of March 23, 2003, using the sales comparison approach to value. The appraiser was not present at the hearing to provide testimony or be cross-examined regarding the appraisal methodology and final value conclusion. The appellant argued the appraisal was submitted to show the subject dwelling contains 2,607 square feet of living area rather than the 3,025 square feet of living area calculated by the township assessor and depicted on the subject's property record card. However, at the hearing the appellant testified he does not think the subject's dwelling size as determined by his appraiser or the board of review is accurate. The appellant opined it is not possible to get an accurate dwelling size for the entire building or each condominium unit. Thus, the appellant argued the percentage of ownership for each unit should be utilized. No further explanation of this contention was offered after further questioning. The appellant next testified the 2004 assessments for all the units should be used as the base value to establish subsequent years assessments because they were revised using the actual market data and percentage of ownership interest.

Exhibit C appears to be a listing flier from the developer detailing the units in the subject's building. The flier depicts the unit number, approximate square footage, number of bedrooms, number of bathrooms, and the unit offering price. A disclaimer states the developer reserves the right to change specifications, dimensions, prices and plans without notice. The condominium units are reported to contain three bedrooms with two bathrooms; range in size from 2,792 to 3,170 square feet of living area; and were offered for sale for prices ranging from \$555,000 to \$635,000. The subject property, an interior unit, was reported to contain 3,025 square feet of living area with a listing price of \$565,000. The end units were reported to contain 3,120 and 3,170 square feet of living area and were offered for sale for prices of \$635,000. The two other interior condominium units,

which contain 2,792 and 2,860 square feet of living area, were offered for sale for prices of \$555,000. The appellant argued this evidence clearly shows the end units are more valuable than the interior units.

The four comparables contained on the appellant's grid analysis are again the same four condominium units located within subject's condominium building. The testimony and photographic evidence indicates end units have lofts unlike the interior units. The suggested comparables share similar physical characteristics and amenities when compared to the subject. The dwellings range in size from 2,792 to 3,170 square feet of living area. Improvement assessments ranged from \$159,463 to \$181,053 or \$57.11 per square foot of living area. The subject property has an improvement assessment of \$172,771 or \$57.11 per square foot of living area. The appellant argued it is unjust to assess all the units at the same per square foot assessed value given the original sale prices of the individual units.

The appellant's grid analysis indicates the comparables originally sold in November 2000 for prices ranging from \$555,000 for the interior units to \$635,000 for the end units or from \$194.06 to \$203.53 per square foot of living area including land. However, Real Estate Transfer Declarations requested by the Board indicate comparables 1, an end unit, sold for \$625,000 or \$197.16 per square foot of living area including land in November 2002. In addition, comparable 2, an interior unit, re-sold in May 2002 for \$595,000 or \$208.04 per square foot of living area including land, which computes to market appreciation of \$40,000 in a 15 month period. The subject property was purchased by the appellant in November 2000 for \$555,000 or \$183.47 per square foot of living area including land, the lowest sale price on a per square foot basis.

The main thrust of the appellant's lack of uniformity claim was detailed on chart 4 of the evidence packet. The chart depicts the four comparables' 2004 final assessment compared to their final 2005 total assessments. The appellant calculated the comparables had assessment increases ranging 3.462% to 7.795% between 2004 and 2005. The subject's total assessment increased by 11.462% between 2004 and 2005. The appellant argued the subject's assessment increase from 2004 to 2005 is much higher on a percentage basis than the comparables and is therefore inequitable. The appellant argued the subject should be assessed no higher than \$184,474 for the 2005 assessment year, which represents a 3.462% increase from its 2004 assessment. Based on this evidence, the appellant requested a reduction in the subject's assessment.

Under cross-examination, the appellant agreed no independent credible market evidence was submitted that would establish the fair market value of the subject's entire building for 2005 in order to apply the individual percentage of ownerships for each unit. However, appellant agreed to the value of the entire condominium building established by the assessor, which he calculated to be \$2,974,089 using all five units' total assessments from 2005. The appellant agreed the subject property was valued using the mass appraisal system. The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$198,966 was disclosed. The subject's assessment reflects an estimated market value of \$600,924 using Lake County's 2005 three-year median level of assessments of 33.11%. In support of the subject's assessment, the board of review submitted a letter in response to the appeal, property record cards, a comparative analysis of the subject and same four comparables submitted by the appellant, and testimony from the deputy township assessor. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

Under questioning, the deputy township assessor testified that is fair and equitable to assess all the condominium units from the subject's building at the same rate of \$57.11 per square foot of living area given the fact the end units sold for \$625,000 and \$635,000 while the interior units like the subject sold for \$555,000 within months of one another. The assessor explained differences in the sale prices is accounted for in the properties land values and assessments. However, the deputy township assessor did not know and could not attest as to the method used to value land or individual units within the subject's building. Property record cards submitted by the board of review indicate the subject and comparables are valued using the cost approach. The assessor also opined the assessor may have used marketing material to establish dwelling sizes, but the assessor did not know if the building or units were physically measured.

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 Property Tax Appeal Board further finds a slight reduction in the subject property's assessment is warranted.

The appellant argued subject property was inequitably assessed. 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 evidence submitted, the Board finds the appellant has overcome this burden and a reduction is warranted.

First, the Board gave little merit to the assessment statistical analyses submitted by the appellant. (Chart 4). The appellant attempted to demonstrate the subject's assessment was inequitable because of the percentage increases in its assessment from 2004 to 2005. The Board finds this type of analysis is not an accurate measurement or a persuasive indicator to demonstrate an assessment inequity by clear and convincing evidence. The Board finds rising or falling assessments from year to year on a percentage basis do not indicate whether a particular property is inequitably assessed. The assessment methodology and actual assessments together with their salient characteristics of properties must be compared and analyzed to determine whether uniformity of assessments exists. The Board finds assessors and boards of review are required by the Property Tax Code to revise and correct real property assessments, annually if necessary, that reflect fair market value, maintain uniformity of assessments, and are fair and just. This may result in many properties having increased or decreased assessments from year to year of varying amounts and percentage rates depending on prevailing market conditions and prior year's assessments.

However, the Board finds the practice of assessing all the units within the subject's condominium building at \$57.11 per square foot results in an inequitable assessment for the subject property. The Board finds the record is clear that the end units originally sold for prices of \$625,000 and \$635,000, respectively. The subject property as well as the other two interior units originally sold for \$555,000 or from \$70,000 to \$80,000 less than the end units. The Property Tax Appeal Board find the market evidence in this record does not support assessing the subject property at the same rate as the end units. The supreme court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

"the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test.[citation.]" Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21. Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible market evidence exists, such as in this appeal. The comparables presented by the parties disclosed that properties located in the same building are assessed at identical levels, which is not supported by the market evidence contained in this record.

The appellant also argued the subject property is overvalued. The Property Tax Appeal Board gave this evidence and argument no weight. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant has not overcome this burden.

The Board finds the neither party submitted any credible market evidence relevant to the subject's January 1, 2005 assessment date. Section 1910.65(c) in the Official Rules of the Property Tax Appeal Board states proof of market value may consist of the following:

- 1) an appraisal of the subject property as of the assessment date at issue;
- 2) a recent sale of the subject property;
- 3) documentation evidencing the cost of construction of the subject property including the cost of land and the value of any labor provided by the owner if the date of construction is proximate to the assessment date; or

4) documentation of not fewer than three recent sales of suggested comparable properties together with documentation of the similarities and lack of distinguishing characteristics of the sales comparables to the subject.

The Board finds the appellant did not submit any other evidence that satisfies this rule in establishing the subject's market value or for that matter the value of the building in which the subject is situated. Thus, all arguments pertaining to this issue, including the percentage of ownership interest argument, is given no weight.

In conclusion, the Board finds the appellant demonstrated a lack of uniformity in the subject's assessment by clear and convincing evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is incorrect and a reduction is 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

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: October 26, 2007



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."

Docket No. 05-01390.001-R-1

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.