PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Warren Kayler
DOCKET NO.: 05-22924.001-R-1
PARCEL NO.: 02-20-109-017-0000

The parties of record before the Property Tax Appeal Board are Warren Kayler, the appellant, by attorney Arnold G. Siegel of Chicago and the Cook County Board of Review.

The subject property consists of a 5.89 acre parcel improved with two dwellings. Improvement #1 is a 98-year old, two story dwelling of frame construction. Containing 3,780 square feet of living area, this dwelling features three full baths, a full unfinished basement, and a one car garage. Improvement #2 is a 113-year old, two-story dwelling of frame construction with two full baths, a partial unfinished basement, air conditioning, and a two car garage. The subject is located in Palatine Township, Cook County.

The appellant's counsel appeared before the Property Tax Appeal Board claiming that Improvement #1 is the subject of unequal treatment in the assessment process as the basis of the appeal. In addition, the appellant claims that five acres of the subject parcel are improperly classified and assessed as residential land. The appellant contends that these five acres are tillable land which has been used exclusively for farming for the past three years. Counsel argued the five acres are dedicated to growing hay to feed horses for an on-site horse rescue and relocation facility.

In support of the inequity argument, the appellant offered a spreadsheet detailing three suggested comparable properties located in the same coded assessment neighborhood as the subject. These properties consist of two-story style single-family dwellings of frame or stucco construction that range from 71 to 100 years old. The comparables range in size from 2,297 to 2,856 square feet of living area with amenities such as two or three full baths; central air conditioning, and two or four-car garages. One of the comparables also has two fireplaces. The comparables have improvement assessments ranging from $9.95 to

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

LAND:	$	28,273
IMPR.:	$	54,390
TOTAL:	$	82,663

Subject only to the State multiplier as applicable.

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$12.33 per square foot of living area. A copy of the subject's 2005 board of review final decision was also included.

In support of the claim that five acres of the subject is incorrectly classified and is tillable land, which has been used exclusively for farming for the past three years, the appellant submitted a copy of the *2005 Cook County Farmland Questionnaire/Affidavit* of the owner presented at the board of review level. The affidavit indicates, in part, that five acres of the subject are used for the growing of hay which is used for feeding rescued and displaced horses and has been so used since January 1 2003. The affiant did not appear at the Property Tax Appeal Board hearing. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final improvement assessment of $54,390 was disclosed. In support of the subject's assessment, the board of review offered property characteristic sheets detailing the subject. The board of review representative testified that the subject's final improvement assessment includes both dwellings. The two dwellings total 5,340 square feet of living area which equates to $10.19 per square foot of living area. An analysis of the board of review's assessment information for the subject revealed the board provided the separated proposed improvement assessments for the subject's two improvements for 2007 not for the year at issue. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

In rebuttal, counsel for the appellant argued that the board of review failed to submit substantive evidence refuting the appellant's claims.

At the hearing, the board of review was directed to produce the methodology utilized to a determine farmland assessment in Cook County and the reasons why the subject was denied a farmland assessment. The board of review submitted a brief indicating the board requires an appellant to submit an affidavit describing the land; its use as farm land; the years used as farmland; current photographs of the property being used as farmland; and current photographs of the farm product. Additionally, the appellant may submit to the board of review any other evidence that may be helpful in determining whether the land designation is erroneous. The board of review asserted that the only evidence submitted by the appellant was the affidavit. With the brief, the board of review submitted a copy of the appellant's affidavit and three photographs of the subject's improvements.

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 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 failed to overcome this burden.

The Property Tax Appeal Board finds that the appellant submitted three properties as comparable to the subject's improvement. The Board finds that these properties bear little similarity to either of the subject's improvements. In addition, the Board finds that the descriptive information for the subject provided by both parties is incorrect. The appellant submitted descriptive data for only one of the subject's improvements and determined an assessment per square foot utilizing the total improvement assessment for both improvements. On the other hand, the board of review failed to provide the correct assessments for each of the two improvements for the year at issue; instead provided the proposed assessments for 2007. As a result of this analysis, the Property Tax Appeal Board finds the appellant failed to adequately demonstrate that the subject dwelling was inequitably assessed by clear and convincing evidence and no reduction is warranted.

With respect to the farmland issue section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

> Any property used solely for the growing and harvesting of crops; for the feeding breeding and management of livestock; for dairying or for any other agricultural or horticultural use of combination thereof; including, but not limited to hay, grain, fruit, truck or vegetable corps, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping raising and feeding of livestock poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming.

In addition, in order to qualify for an agriculture or farmland assessment, the land must be farmed at least two years preceding the date of assessment (35 ILCS 200/10-110.)

The Property Tax Appeal Board finds that the only evidence in the record supporting the appellant's claim is a copy of an affidavit presented to another reviewing body. The Board finds that the appellant did not appear before the Property Tax Appeal Board to undergo meaningful examination about subject's the use, crop, or any of the pertinent data critical to the determination of whether or not the five acre portion of the subject parcel qualified for a farmland classification and assessment. The Board further finds that the appellant failed to present

documentation regarding the subject's use, crop or any of the pertinent data necessary to the determination of the five acre portion of subject parcel as farmland. The Property Tax Appeal Board finds that the appellant's assertion with respect to the subject's farming use is not credible. Without the opportunity to question the taxpayer about the use of the subject property for farming purposes, the Board cannot give any weight to that aspect of the appellant's appeal.

Therefore, the Property Tax Appeal Board finds that the appellant's claim that five acres of the subject parcel is incorrectly classified is without merit and no change in classification or assessment is warranted based on this record.

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: May 27, 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.