

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Taco Bell
DOCKET NO.: 06-00199.001-C-1
PARCEL NO.: 14-30-378-036

The parties of record before the Property Tax Appeal Board are Taco Bell, the appellant, by attorney Clyde B. Hendricks of Peoria and the Peoria County Board of Review.

The subject parcel contains 36,590 square feet of land area and has been improved with a one-story block and stucco/frame fast food restaurant of 2,837 square feet of building area. The building was constructed in 2002 and is located in Peoria Township.

The appellant through counsel appeared before the Property Tax Appeal Board contending a lack of uniformity in the assessment process as the basis of the appeal, disputing only the subject's improvement assessment. In support of this inequity argument, the appellant presented an assessment analysis prepared by Vivian E. Hagaman.

Hagaman testified she was hired to do a search as an appraiser and prepared most of the evidentiary material presented in the appeal. Hagaman has 10 years of appraisal experience in commercial and residential properties along with an Associate Real Estate Appraiser license from the State of Illinois. Hagaman testified she spoke with the township assessor and determined the cost approach was used in calculating the subject's assessment and therefore she based her analysis upon the cost approach.

In performing her analysis, Hagaman looked at the property record cards for each comparable and examined the condition, desirability, and utility (CDU) notation as set forth by the township assessor along with the grade. Hagaman prepared an assessment analysis using seven equity comparables which she found to be the most similar comparables in size available with a similar age. She noted restaurant buildings in the 3,000 square foot range tend to be older properties in her analysis. Hagaman further acknowledged that while the subject is a fast food restaurant with available seating and a drive-thru window, the

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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:	\$	55,900
IMPR.:	\$	125,610
TOTAL:	\$	181,510

Subject only to the State multiplier as applicable.

comparables were more full-service restaurants. She indicated in her written materials that she adjusted the equity comparables in relation to the subject for grade "as prescribed by the most current Illinois Property Manual (2002)" as well as for CDU. Her materials also contained copies of the property record cards for the subject and comparables from the township assessor's Computer Assisted Mass Appraisal (CAMA) system along with color photographs of the subject and comparables.

Her analysis indicated the subject improvement had an estimated fair market value as reflected by its assessment of \$132.83 per square foot of building area.¹ Hagaman's chart indicated the comparables ranged in size from 4,381 to 7,605 square feet of building area for an average of 5,621 square feet of building area. Hagaman's analysis indicated the comparables were constructed from 1968 to 2003 for an average of 1993. Using a 92% CDU for the subject,² Hagaman reported the comparables had CDUs ranging from 60% to 95% for an average of 77%. The comparables had grades ranging from A to C+05 for an average of A-05. She indicated the comparables had improvement assessments reflecting estimated market values ranging from \$50.48 to \$106.75 per square foot of building area and an average market value of \$78.92 per square foot for the building only. The witness indicated the comparables had grade adjustments ranging from \$57.89 to \$117.42 per square foot of building area for a weighted average of \$86.81 per square foot of building area. The witness indicated the comparables had CDU adjustment values ranging from \$88.76 to \$124.16 for a weighted average of \$103.53 per square foot. Based on this analysis, the appellant requested the subject's improvement assessment be reduced to \$34.51 per square foot of building area, reflecting a market value of \$103.53 per square foot of building area, or \$293,715 for the improvement.

On questioning by the Hearing Officer, Hagaman admitted that she made no size adjustment in her analysis. She also acknowledged that a smaller building would be expected to have a higher per square foot value. Hagaman further contended that the exterior construction of the comparables was similar to the subject.

Under cross examination by the board of review, Hagaman testified she did not prepare an appraisal in this matter.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$181,510 was disclosed. The subject had an improvement assessment of \$125,610 or \$44.28 per square foot based upon the actual building area of 2,837 square feet.³ To demonstrate the subject was equitably

¹ Improvement assessment of \$125,610 ÷ 2,837 sq. ft. = \$44.275 x 3 = \$132.83 rounded.

² The property record card for the subject indicates a CDU of 83%.

³ The board of review grid analysis set forth the subject as having 2,613 square feet of building area. According to the property record card, the improvement consisted of a main area of 2,613 square feet plus entry of 91 square feet plus cooler of 133 square feet for 2,837 square feet of building area.

assessed, the board of review submitted description and assessment information on three comparables in a grid analysis format along with copies of the applicable property record cards for the subject and comparables. The comparables were said to be similar to the subject in location, design, use, size, and age. From the grid analysis, the comparables were all one-story commercial buildings used for fast food or restaurant purposes. The comparables ranged in size from 3,581 to 5,936 square feet of building area and were of concrete block and frame construction. The buildings were either 2 or 5 years old and were located in the subject's township and from 1 to 2.5 miles from the subject property. The comparable properties had improvement assessments ranging from \$177,530 to \$273,640 or from \$46.10 to \$49.58 per square foot of building area. The subject had an improvement assessment of \$125,610 or \$44.28 per square foot of building area.

In response to the appellant's data, the board of review presented testimony that the subject property was located near the riverfront in Peoria, whereas most of the appellant's comparables were located a substantial distance from the subject in other parts of Peoria, including in other townships. The board of review further criticized the appellant's comparables for lack of similarity in size and that the burden of proof of clear and convincing evidence had not been established as to appellant's appeal. Based on this evidence, the board of review requested confirmation of the subject's assessment.

On cross-examination, appellant's counsel confirmed that only the improvement assessment was at issue. As such, the appellant's counsel asserted that location of the comparables is irrelevant to the analysis in this proceeding given the use of the cost approach in valuing the improvements.

In a written rebuttal previously filed in this matter, appellant's counsel criticized each of the comparables presented by the board of review. As to comparable #1, it was suggested the assessed value should be reviewed due to the age, size and CDU of the property. As to comparable #2, it was contended the 2006 assessment reflected an incomplete/original building which was demolished and pro-rated by the assessor. As to comparable #3, it was noted this property to be a "full service" restaurant, not a fast food restaurant; in light of a "use" adjustment, size and grade, the rebuttal argued this comparable further establishes the subject is inequitably assessed.

In surrebuttal at hearing, the board of review noted the appellant's chosen comparables to establish inequity were admittedly mostly full-service restaurants, unlike the subject, and therefore the rebuttal criticism of the board of review's evidence was arguably undeserved in this matter.

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 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. The Board finds Hagaman's analysis was based on general subjective characteristics of the buildings of grade and CDU with virtually no other considerations. The Board finds the type of analysis does not adequately consider the physical characteristics of the individual buildings such as age, size, type of construction, proximate location, 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. . .

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 necessitating similar assessments. A review of the properties disclosed that those most similar comparables to the subject in terms of age, size and construction included the appellant's comparables 1, 3, and 4 and comparables 1 and 2 submitted by the board of review. These comparables were one story buildings of brick and frame, block and frame, and/or concrete block construction that ranged in size from 3,581 to 4,893 square feet of building area. These buildings were constructed from 1996 to 2005. These comparables had improvement assessments that ranged from \$20.77 to \$49.58 per square foot of building area. The subject has an improvement assessment of \$44.28 per square foot of building area which falls within the range established by the most similar comparables contained in this record. Based on this data the Property Tax Appeal Board

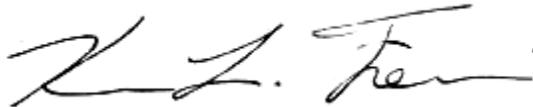
finds a reduction in the subject's improvement assessment is not justified.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960). Although the comparables presented by the appellant disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no 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.



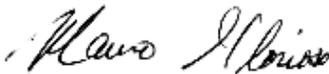
Chairman



Member



Member



Member



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: March 20, 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.