

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: McDonald Corp.  
DOCKET NO.: 06-00207.001-C-1  
PARCEL NO.: 13-12-354-001

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

The subject parcel contains 58,370 square feet of land that has been improved with a one-story concrete block and frame building of 3,293 square feet of building area built in 1994. The property 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. Hagaman further acknowledged that while the subject is a fast food restaurant with available seating and a drive-thru window, the 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

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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:	\$	206,380
IMPR.:	\$	126,360
TOTAL:	\$	332,740

Subject only to the State multiplier as applicable.

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 photographs of the subject and comparables.

Her analysis indicated the subject improvement had an estimated fair market value as reflected by its assessment of \$115.12 per square foot of building area.<sup>1</sup> Hagaman's chart indicated the comparables ranged in size from 4,381 to 6,180 square feet of building area for an average of 5,105 square feet of building area.<sup>2</sup> Hagaman's analysis indicated the comparables were constructed from 1968 to 2003 for an average of 1992. Using a 72% CDU for the subject, Hagaman reported the comparables had CDUs ranging from 60% to 95% for an average of 76%. The comparables had grades ranging from A to C+05 for an average of B+10. 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 \$69.47 to \$97.17 for a weighted average of \$90.03 per square foot. Based on this analysis, the appellant requested the subject's improvement assessment be reduced to \$30.01 per square foot of building area, reflecting a market value of \$90.03 per square foot of building area, or \$296,469 for the improvement.

Hagaman testified that she made no age adjustment because she felt the CDU reflects the effective age. She had been told the CDU takes into consideration any updates or remodels of the property. Moreover, she tried to stay as close to the subject's age as possible in selecting her comparables. Hagaman made no size adjustment in her analysis because in her opinion the seven comparables she presented, buildings between 4,000 and 7,000 square feet, do not reflect much difference in value based on size.

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

On questioning by the Hearing Officer, Hagaman indicated that her compensation for preparation of the evidentiary materials in this matter was not contingent on the outcome of the appeal.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$332,740 was

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<sup>1</sup> Improvement assessment of  $\$126,360 \div 3,293 \text{ sq. ft.} = \$38.372 \times 3 = \$115.12$  rounded.

<sup>2</sup> Comparable 7 was said to contain 4,510 square feet of building area, however, the underlying property record card reflects only 3,496 square feet of building area.

disclosed. The subject had an improvement assessment of \$126,360 or \$38.37 per square foot. To demonstrate the subject was equitably 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, improvement assessment per square foot, and age. From the grid analysis, the comparables were located from 0.2 to 1.5 miles from the subject and were all one-story commercial buildings used for fast food restaurant purposes. The comparables ranged in size from 2,888 to 4,496 square feet of building area and were of concrete block and frame construction. The buildings ranged in age from 1 to 12 years old. The comparable properties had improvement assessments ranging from \$118,870 to \$230,590 or from \$41.16 to \$51.29 per square foot of building area. The subject had an improvement assessment of \$126,360 or \$38.37 per square foot of building area.

In response to the appellant's data, the board of review criticized the appellant's comparables as being 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. Due to some inaccuracies in the appellant's presentation of comparable 7, a McDonald restaurant, the board of review moved to have that comparable disregarded. 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 noted the property was smaller and had a better CDU such that its assessment needs to be reviewed. As to comparable #2, counsel noted it was pending an appeal of its assessment before the Property Tax Appeal Board.<sup>3</sup> As to comparable #3, it was contended this was one of appellant's comparables used to establish inequity "after adjusting the age, grade, and CDU." The Board finds, however, board of review comparable 3 is not among the seven comparables presented by appellant.

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<sup>3</sup> The appeal was pending as Docket No. 06-00201 and has since been granted a reduction by the Property Tax Appeal Board to \$48.30 per square foot of building area.

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.

Addressing the board of review's motion to disregard appellant's comparable 7, the Property Tax Appeal Board denies the motion. During the hearing, the Board was able to ascertain the square footage of the improvement as recorded by the assessor of 3,496 square feet and to ascertain the improvement assessment for 2006 of \$128,220 or \$36.68 per square foot of building area. The Board will utilize these corrected figures with regard to comparable 7 for purposes of analysis.

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 Haganan's analysis and conclusion. The Board finds Haganan's analysis was based on general subjective characteristics of the buildings of grade and CDU with virtually no other considerations. The Board finds this 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.

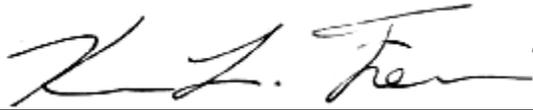
As to board of review comparable 2 it must be noted that the Property Tax Appeal Board has rendered a decision in Docket No. 06-00201.001-C-1. In summary, the Board found based upon the record evidence that the assessment of board of review comparable 2 in this matter was incorrect and issued a reduction in improvement assessment to \$48.30 per square foot of building area. In light of the Illinois Appellate Court's decision in Pace Realty Group, Inc. v. Property Tax Appeal Board, 306 Ill. App. 3d 718, 713 N.E.2d 1249 (2<sup>nd</sup> Dist. 1999), the Board will analyze board of review comparable 2 with its reduced improvement assessment in accordance with the Board's recent decision in order to avoid a "self-validating assessment" wherein the assessment of both the subject and this comparable have been challenged by the respective taxpayers.

The parties submitted a total of ten comparables for the Board's consideration. Appellant's comparables 2, 5 and 6 and board of review comparables 2 and 3 have been given less weight in the Board's analysis due to differences in age, size and/or exterior construction from the subject. The Board finds appellant's comparables 1, 3, 4 and 7 and board of review comparable 1 to be the most similar comparables in this record to the subject in age, size and other features. These comparables were one story buildings of brick and frame, block and frame, and/or concrete block construction that ranged in size from 2,888 to 4,893 square feet of building area. These buildings were constructed from 1994 to 2001. These comparables had improvement assessments that ranged from \$20.77 to \$41.16 per square foot of building area. The subject has an improvement assessment of \$38.37 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.

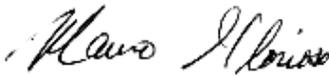
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Chairman



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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: April 24, 2009



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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.