

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Leo and Judith Wiedenfeld  
DOCKET NO.: 06-00972.001-R-1  
PARCEL NO.: 18-01-229-039

The parties of record before the Property Tax Appeal Board are Leo and Judith Wiedenfeld, the appellants, and the McHenry County Board of Review.

The subject property consists of a 10,468 square foot parcel located on the lake in Crystal Lake, Grafton Township, McHenry County. The property has also been improved with a single-family dwelling.

The appellants' appeal is based on unequal treatment in the assessment process as to the land assessment only. No dispute was raised concerning the improvement assessment. In support of the land assessment inequity argument, the appellants submitted a grid analysis of three comparable properties on the same street as the subject, but in the neighboring township of Algonquin. Appellants assert the subject and each of the comparable lands are 50' wide and located on the lake. The comparables range in land area from 7,480 to 11,033 square feet and have land assessments ranging from \$42,998 to \$55,778 or from \$5.06 to \$5.82 per square foot of land area. The subject has a land assessment of \$82,771 or \$7.91 per square foot. Based on this evidence, the appellant requested a reduction in the subject's land assessment to \$53,015 or \$5.06 per square foot of land area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment was disclosed. In support of the subject's land assessment, the board of review presented a letter from the Grafton Township Assessor with an explanation of how land is assessed in the township and five suggested land comparables. In addition, a grid analysis of three comparable properties was also presented. The grid includes land data as well.

The township assessor asserted lots around the lake in Grafton Township are assessed using an average depth for each lot, with a

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

LAND:	\$	82,771
IMPR.:	\$	131,291
TOTAL:	\$	214,062

Subject only to the State multiplier as applicable.

standard lot being 50' by 100'. Dimensions exceeding a standard lot size are considered oversized and calculated at a reduced rate. The subject lot is said to be 58' x 200',<sup>1</sup> or by definition, an oversized lot. The board of review further reported the subject to have a lot size of 10,468 square feet. No figures for depth factors or the manner of determining land assessments was further detailed.

The five land comparables reported in the assessor's letter ranged in size from 56' wide to 59' wide and had depths ranging from 140' to 200'. These comparables were said to have land assessments ranging from \$79,951 to \$82,518. The subject has a land assessment of \$82,771.

In the grid analysis of three improved properties, the board of review reported land information including lot size in square footage terms, water frontage, and total land assessment. Again, no depth factor information was provided. These three properties ranged in size from 8,175 to 11,463 square feet of land area. They have land assessments ranging from \$77,198 to \$87,836 or from \$8.45 to \$9.46 per square foot of land area. The subject property of 10,468 square feet has a land assessment of \$7.91 per square foot.

Through presentation of a copy of the Real Estate Transfer Declaration, the board of review also reported the sale of the subject property in September 2007 for \$884,000. The township assessor further contends that the case of Cherry Bowl, Inc. v. Property Tax Appeal Board, 100 Ill. App. 3d 326 (2<sup>nd</sup> Dist. 1981) stands for the proposition that assessment practices of other assessors are not relevant to whether the assessor was correct in the instant case. Based on this evidence, the board of review requested confirmation of the subject's 2006 assessment.

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 Board further finds a reduction in the subject's assessment is not warranted on this record.

The appellants contend unequal treatment in the subject's land 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 assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellants have not met this burden.

The uniformity requirement prohibits taxing officials from valuating one kind of property within a taxing district at a certain proportion of its true value while valuating the same

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<sup>1</sup> Multiplying 50' by 200' results in a calculation of 11,600 square feet, which is larger than the subject's reported land square footage.

kind of property in the same district at a substantially lesser or greater proportion of its true value. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960); People ex rel. Hawthorne v. Bartlow, 111 Ill. App. 3d 513, 520 (4<sup>th</sup> Dist. 1983).

A uniformity violation can be established through evidence regarding the assessed valuations of a small number of properties. Du Page County Board of Review v. Property Tax Appeal Board, 284 Ill. App. 3d 649, 655 (1996). The properties selected for comparison must be similar in kind and character and must be similarly situated to the subject property. Id. at 654. In this case, the appellants contend that the subject and comparable properties are all located in the same general vicinity and all are located on Crystal Lake with the subject being within Grafton Township and the appellants' comparables being within Algonquin Township. Appellants are taking issue with the vast disparity in per square foot land assessments between these two neighboring townships regarding similar properties.

The board of review's comparables are located on the same lake as the subject property and within Grafton Township. The board of review contends the appellant's comparables are not located in the same township as the subject and therefore should not be considered.

Contrary to the arguments made by the township assessor/board of review, in Cherry Bowl, Inc. v. Property Tax Appeal Board, 100 Ill. App. 3d 326, 331, 426 N.E.2d 618, 622-623, 55 Ill. Dec. 472, 476-477 (2<sup>nd</sup> Dist. 1981), a witness called by appellant sought to testify to telephone conversations he had with various assessors and to introduce in evidence letters received from some of the assessors referring to that subject. Objections were made to the testimony on the grounds an improper foundation had been laid for introduction of this evidence and, also, that it could only be received through the testimony of the respective assessors. In the course of that case the Board sustained the objections finding that such evidence was not relevant to the issue before it and was also hearsay.

On appeal, the appellate court held that the objections were properly sustained by the Board. The appellate court stated:

The interpretation given to the scope of section 1(13) of the Revenue Act (Ill. Rev. Stat. 1977, ch. 120, par. 482(13)) by a few of the many assessors applying it to bowling establishments throughout the state was not relevant to whether the Rockford Township Assessor had correctly done so in the present case. Nor would evidence of the varied approaches taken by them assist the PTAB in its resolution of the question before it. The offered testimony and documents were clearly hearsay, in any event, and on objection the PTAB properly declined to consider them. See Baehr v. Health & Hospital Governing Com. of Cook County, 86

Ill. App. 3d 43, 46, 407 N.E.2d 817, 820, 41 Ill. Dec. 319, 322 (1980).

Id. Here, where appellants are presenting similar properties on the same lake, even though they may be situated in differing townships, but located in the same county, the principles of Cherry Bowl do not apply. Thus, the Property Tax Appeal Board accords this aspect of the board of review's argument little merit.

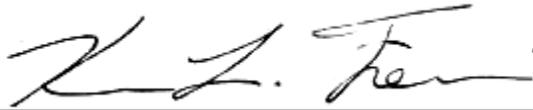
The board of review failed to submit any evidence indicating similar real property within the same geographical area and with similar water features, but situated in different townships, carry dissimilar values. On the other hand, appellants likewise offered no credible market evidence that would suggest these similar properties located in Grafton Township have similar fair cash values as those similar properties in Algonquin Township. Despite these failures in presentation of market value evidence in this matter, the Property Tax Appeal Board finds the McHenry County board of review has the **statutory duty** to equalize assessments **within and between townships within its jurisdiction** which may not have occurred in this matter given the land assessments presented. In summary, the Board finds the large, unexplained disparity in land assessments for nearby properties located on the same lake and in the same geographic area, although being situated in different townships, to be highly problematic.

Notwithstanding the problematic land assessment methodologies apparently utilized by two differing township assessors on the same lake and which was not fully explained, the Property Tax Appeal Board finds that the subject property's land assessment of \$82,771 or \$9.71 per square foot of land area falls within the range of the most similar lake lots presented by both parties on this record. The parties presented a total of six comparables which could suitably be analyzed on a land assessment per square foot basis and those assessments ranged from \$5.06 to \$9.46 per square foot of land area. The subject's land assessment of \$7.91 per square foot of land area falls within the range of the most similar comparables presented on this record. Thus, the Property Tax Appeal Board finds a reduction in the subject's land assessment is not 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.



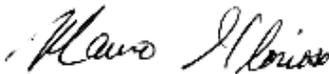
Chairman



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: June 19, 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.