PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Hermann Faubl
DOCKET NO.: 06-01628.001-R-1
PARCEL NO.: 02-06-132-005

The parties of record before the Property Tax Appeal Board are Hermann Faubl, the appellant, and the Kane County Board of Review by Assistant State's Attorney Joseph Lulves.

The subject property consists of a Buckingham model one-story frame dwelling that was built in 2004 and contains 2,598 square feet of living area. Features include a full basement, central air conditioning, and a 407 square foot attached garage. The subject property is located in the Sun City senior citizen retirement community in Huntley, Illinois, which is within the assessment jurisdiction of Rutland Township, Kane County, Illinois. Directly north of the subject is the McHenry County boundary line and another portion of the Sun City community, which is located in the assessment jurisdiction of Grafton Township, McHenry County. Thus, the Sun City community straddles the Kane and McHenry County boundary line, which includes portions of Rutland Township, Kane County, and Grafton Township, McHenry County.

The appellant appeared before the Property Tax Appeal Board claiming a lack of uniformity regarding the subject's improvement assessment as the basis of the appeal. More specifically, the appellant argued the improvement assessments of Buckingham model dwellings located in Grafton Township, McHenry County, are assessed proportionally less than Buckingham model dwellings located in Rutland Township, Kane County. The subject's land assessment was not contested. In support of this argument, the appellant presented an equity analysis of four suggested comparables located from 3 to 7 blocks from the subject. However, the comparables are located in Grafton Township, McHenry County. The comparables consist of Buckingham model, one-story frame or frame and masonry dwellings that are from two to five years old. Features include full basements, central air conditioning and attached garages that contain 406 or 606 square

(Continued on Next Page)

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

LAND:	$	21,414
IMPR.:	$	94,220
TOTAL:	$	115,634

Subject only to the State multiplier as applicable.

PTAB/OCT.08/BUL-7193

feet. Two comparables contain a fireplace. The dwellings range in size from 2,758 to 2,806 square feet of living area and have improvement assessments ranging from $77,389 to $78,508 or from $27.87 to $28.32 per square foot of living area. The subject property has an improvement assessment of $94,220 or $36.27 per square foot of living area.

The appellant's evidence also revealed the comparables sold from December 2002 to August 2005 for prices ranging from $333,334 to $396,205 or from $120.86 to $147.81 per square foot of living area including land. The evidence showed the appellant purchased the subject property in August 2004 for $415,483 or $159.92 per square foot of living area including land.

The appellant argued taxpayers of Sun City properties, Rutland Township, Kane County, pay 90% of their property taxes to the same taxing districts as property owners in Grafton Township, McHenry County. The appellant argued that since Rutland Township assessments for the same model homes are substantially higher than Grafton Township, property owners in Rutland Township pay proportionally higher property taxes to the shared taxing districts, which is inequitable. (See appellant's attachment D) The appellant acknowledged the subject's assessment is equitable with similar properties within Rutland Township.

To support the contention that assessment comparables located in a different taxing jurisdiction and county are proper to utilize and consider for equity purposes, the appellant cited Section 18-155 of the Property Tax Code, which provides in part:

> Apportionment of taxes for district in two or more counties. The burden of taxation of property in taxing districts that lie in more than one county shall be fairly apportioned as provided in Article IX, Section 7, of the Constitution of 1970. (35 ILCS 200/18-155).

The appellant argued that when man-made boundaries cause non-uniformity with respect to the tax burden, government bodies must correct the situation. The appellant next referred to attachments C and D of his submission, which show significant tax dollar differences between the two townships as a consequence of non-uniform assessments.

The appellant next cited a prior Property Tax Appeal Board decision under Docket Number 04-01093.001-R-1. The subject property in that appeal was located in Rutland Township like this appeal. In that decision, the Property Tax Appeal Board gave no weight to three of the comparables submitted by the appellant because they were located in a different county and assessment jurisdiction than the subject, citing Cherry Bowl v. Property Tax Appeal Board, 100 Ill.App.3d 326, 331 (2nd Dist. 1981). In Cherry Bowl, the appellate court held that evidence of assessment practices of assessors in other counties is inadmissible in proceedings before the Property Tax Appeal Board. The court further observed in Cherry Bowl the interpretation of the

relevant provisions of the statutes governing the assessment of real property by assessing officials in other counties was irrelevant on the issue of whether the assessment officials within this particular county, where the property is located, correctly assessed the property. As a result, the Board found the assessments of other similar models in McHenry County are not relevant or probative of whether the assessments established by Kane County assessment officials are correct.

The appellant contends the Property Tax Appeal Board misinterpreted the court's holding in Cherry Bowl. The appellant contends the court in fact held that the plaintiff did not properly introduce the evidence of other assessors, but presented it as hearsay. Therefore, the appellant contends the plaintiff in Cherry Bowl had not laid the proper foundation for the evidence and the court did not incorporate other assessor's methods into its decision. As a result, the appellant contends Cherry Bowl cannot be used to reject the inequity contention and the case law should be correctly applied by the Property Tax Appeal Board. When questioned by the Hearing Officer on whether the taxpayer was going to introduce a foundational witness and/or testimony from McHenry County Assessment Officials regarding assessment methodologies and practices for properties located in the Sun City development of McHenry County, the appellant responded by indicating he did not procure such witnesses nor would any expert testimony be elicited regarding this matter.

The appellant next cited other court cases to support his proposition of unequal treatment. In his brief, the appellant stated: In Bracher v. Millard, 307 Ill. 556, 139 N.E. 113 (1923), the Illinois Supreme Court held the tax imposed by a taxing district shall be proportional to the value of the taxable property within its limits so that one owner shall not pay a higher tax in proportion to the value of its taxable property than another owner. The appellant claims a similar statement was made by the Illinois Supreme Court in Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 229 Ill.Dec. 487, 692 N.E.2d 260 (1998). The appellant argued the Illinois Supreme Court reiterated its consistent position in Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). In this case, the court held the uniformity requirement prohibits taxing officials from valuing one kind of property within a taxing district at a certain proportion of its true value while valuing the same kind of property in the same district at a substantially lesser or greater proportion of its true value. The principle of uniformity in taxation requires equity in the burden of taxation. See also Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). In People ex rel. Hawthorne v. Bartlow, 111 Ill.App. 3d 513, 520 (1983), the court held that an equal tax burden cannot exist without uniformity in both the basis of assessment and in the rate of taxation. As stated in his brief, the appellant assumed the word "taxing officials" by the court was a combination of assessors, taxing bodies and extension officials, but agreed only assessment officials value property for taxation purposes.

During the hearing, the appellant initially cited and submitted as rebuttal to the board of review's evidence the Illinois Supreme Court ruling in People ex rel. Skidmore v. Anderson, 56 Ill. 2d 334 (1974). The appellant relied heavily on the Court's holding in this case to support his contention that the subject property is inequitably assessed compared to other similar properties within the same taxing district, but located in a different assessment jurisdiction and county. (Kane County versus McHenry County). In Skidmore, taxpayers who resided within the Lake County portion of two school districts that encompassed portions of four counties filed written objections to application by the county collector of Lake County for judgment and an order of sale. The school districts intervened. The circuit court sustained the objections to the tax rates and ordered refunds in the sums as the court had found to be 'excessive, illegal and void.'

The same group of property owners in Skidmore, the objectors, in a separate and earlier proceeding had unsuccessfully sought a reduction in assessments before the Property Tax Appeals Board of Lake County. The circuit court affirmed the Board's action and denied the reduction in assessments. The objectors also unsuccessfully brought a class action in the United States District Court for the Northern District of Illinois.

In Skidmore, the Illinois Supreme Court held that under the Constitution of 1870, assessment levels of 42% of full, fair cash value of property within the Lake County portion of the school districts was so unequal when compared to the 26.31% assessment level for taxpayers within the Cook County portion of the districts as to constitute constructive fraud on the Lake County taxpayers.

Before considering the intervenors' claims, the Court in Skidmore pointed out that it was appropriate to observe that Section 7 of Article IX of the Constitution of 1970 recognized the problem illustrated in the appeal. The new constitution provided that the General Assembly may enact laws to require apportionment of the burden of taxation of property situated in taxing districts that lie in more than one county. The Court noted the legislature enacted a statute which provides for the future, a method of apportioning the burden of taxation of property in taxing districts lying in more than one county, if one or more of the counties has a population of at least 200,000. (Pub.Act 78-724 (1973) 78th Gen.Assembly, now codified in the Property Tax Code under 35 ILCS 200/18-155 through 18-160).

In Skidmore, the Court held there is no legal impediment to a consideration of differences in assessment levels to determine whether they amount to constructive fraud, though the involved assessments have been made by different assessment bodies. The circumstances that properties may lie in different counties should not preclude a comparison of their respective assessment levels to determine if there is constructive fraud, when the

properties lie within the same taxing district or districts. Each set of taxpayers receives identical services from the taxing districts, but there are substantial and gross discrepancies or differences between the assessment levels of Cook County and the Lake County properties and between the taxes the Cook County and Lake County taxpayers must pay for identical services from taxing districts.

Based on the assessment comparables, previous Property Tax Appeal Board decisions and case law, the appellant argued he has demonstrated the subject property was inequitably assessed by clear and convincing evidence. More importantly, the appellant requested the Board to issue an opinion finding the use of similar comparables within the same taxing district, even if they are located in different governmental jurisdictions such as townships or counties, to be appropriate.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of $115,634 was disclosed. The subject's assessment reflects an estimated market value of $346,937 or $133.54 per square foot of living area including land using Kane County's 2006 three-year median level of assessments of 33.33%.

In support of the subject's assessment, the board of review submitted an analysis of four suggested comparables. The comparables are located from next door to three properties north along the subject's street. In addition, the comparables are located in Rutland Township, Kane County, like the subject. The comparables back to a 21.86 acre area that is dedicated as open space, like the subject and unlike the comparables used by the appellant. They consist of Buckingham model, one-story frame and masonry dwellings that were built in 2004. Features include full unfinished basements, central air conditioning and two or three car attached garages ranging in size from 407 to 578 square feet. The dwellings contain 2,598 or 2,808 square feet of living area and have improvement assessments ranging from $94,220 to $117,061 or from $36.27 to $43.25 per square foot of living area. The subject property has an improvement assessment of $94,220 or $36.27 per acre square foot of living area.

The evidence also revealed these comparables sold in March and August of 2004 for prices ranging from $369,945 to $446,019 or from $142.40 to $163.02 per square foot of living area including land. The evidence shows the appellant purchased the subject property in August 2004 for $415,483 or $159.92 per square foot of living area including land. Again, the subject's assessment reflects an estimated market value of $346,937 or $133.54 per square foot of living area including land using Kane County's 2006 three-year median level of assessments of 33.33%.

In response to the legal argument outlined by the appellant, Joseph F. Lulves, Kane County Assistant State's Attorney, submitted a legal brief. The brief explains the appellant's citation of Section 18-155 of the Property Tax Code (35 ILCS

200/18-155) is accurate, but his interpretation is misplaced. The assistant state's attorney argued while this statute addresses the uniform apportionment of taxes for taxing districts that cross county lines, jurisdictional enforcement is through the Illinois Department of Revenue, not the Supervisor of Assessments, the Board of Review, or the Property Tax Appeal Board. Section 18-155 of the Property Tax Code provides in part:

> The Department may, and on written request made before July 1 to the Department shall, proceed to apportion the tax burden. The request may be made only by an assessor, chief county assessment officer, Board of Review, Board of Appeals, overlapping taxing district or 25 or more interested taxpayers. (35 ILCS 200/18-155).

Section 1-40 of the Property Tax Code (35 ILCS 200/1-40) defines "Department" as the Illinois Department of Revenue. The assistant state's attorney argued the appellant is requesting that the taxes of the various taxing districts that extend from Grafton Township, McHenry County into Rutland Township, Kane County, be reapportioned more equitably based on Section 18-155 of the Property Tax Code. (35 ILCS 200/18-155). The assistant state's attorney argued the Supervisor of Assessments, the Board of Review, and Property Tax Appeal Board have no jurisdiction to adjust property taxes as provided by Section 18-155 of the Property Tax Code. (35 ILCS 200/18-155). The state's attorney argued the appellant is confusing the apportionment of districts' tax levies with uniformity of assessments, both of which processes are the responsibility of different government bodies. Additionally, the assistant state's attorney argued none of the authorities cited by the appellant established that county assessment officials have the statutory authority to rely on assessments of properties located outside their assessment jurisdiction in making decisions. In fact, the Property Tax Code limits the jurisdictional authority of county assessment officials. (See 35 ILCS 200/9-210 and 35 ILCS 200/16-55). Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination, Kane County Board of Review member Gerald A. Jones testified Sun City is one subdivision with multiple neighborhoods. Jones testified similar properties within Kane County's assessment jurisdiction of Sun City show a high level of assessment uniformity including the four comparables located in close proximity along the subject's street. With respect to the comparables located along the subject's street, the appellant contends through implication that these property owners should have a valid case on appeal. Jones reiterated he believed the subject and comparables were assessed appropriately. Jones argued the legal issue raised by the appellant should be directed to the Department of Revenue pursuant to Section 18-155 of the Property Tax Code. (35 ILCS 200/18-155). Jones explained assessment officials "deal" with assessments, not property taxes. He further argued the

appellant's argument pertains to the levy rates and property taxes collected by overlapping taxing districts in two separate counties. Based on the presumption that the State Constitution holds tax assessments within a taxing district, even in overlapping counties, should be equitable, Jones testified he is not a property tax lawyer or a constitutional expert. Thus, Jones respectfully declined to answer the question as posed by the appellant. The appellant next referred to the Kullman decision as rendered by the Property Tax Appeal Board under Docket Number 03-01428.001-R-1. The appellant interpreted the Kullman decision by arguing the Property Tax Appeal Board did not find it was inappropriate to look across county lines to consider comparables. The assistant state's attorney responded by indicating the Board's Kullman decision does not stand for the proposition the board of review can be required to take into account assessments of properties across county lines.

At this point in the proceeding Mr. S.M. Titus, who accompanied the appellant to the hearing, interjected himself into the hearing by objecting to the assistant state's attorney's response. Titus is not an attorney licensed to practice law in the State of Illinois nor a party to this appeal. Thus, Titus was admonished at the hearing for improperly interrupting the proceedings. The appellant then requested Titus to be called as a witness, which was denied by the Board pursuant to Sections 1910.67(j) and 1910.90(c)(3) of the Official Rules of the Property Tax Appeal Board because the appellant's case-in-chief had concluded. At the conclusion of the board of review's closing statement, Titus again attempted to interject a response to the legal arguments presented by Assistant State's Attorney Lulves. Titus was again admonished.

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 Board further finds no reduction in the subject's assessment is warranted.

The appellant appeared before the Property Tax Appeal Board claiming a lack of uniformity regarding the subject's improvement assessment as the basis of the appeal. More specifically, the appellant argued the improvement assessments of Buckingham model dwellings located in Grafton Township, McHenry County, are assessed proportionally less than Buckingham model dwellings located in Rutland Township, Kane County, where the subject is located. The appellant's main argument was that those comparables located in McHenry County should be considered and utilized to determine an equitable assessment for the subject property.

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 that the appellant has failed to overcome this burden.

The Property Tax Appeal Board finds each of the parties' selected four suggested assessment comparables in support their respective positions on whether the subject property was uniformly assessed. All the comparables submitted by the parties were similar one-story Buckingham model dwellings like the subject. They had varying degrees of similarity when compared to the subject in age, size, exterior construction, and amenities.

The Property Tax Appeal Board further finds the assessment comparables submitted by the board of review to be most representative of the subject in age, size, design, style, features and assessment jurisdiction. Additionally the board of review's comparables are located in very close proximity along the subject's street. Thus, these comparables were given significant weight by the Property Tax Appeal Board. These most similar comparables have improvement assessments ranging from $94,220 to $117,061 or from $36.27 to $43.25 per square foot of living area. The subject property has an improvement assessment of $94,220 or $36.27 per square foot of living area, which falls at the low end of the range established by the most similar comparables contained in this record. As a result of this analysis, the Board finds the appellant failed to demonstrate that the subject property was inequitably assessed by clear and convincing and no reduction is warranted.

When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. 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 evidence exists. The Illinois 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 Illinois Supreme 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. The Board finds evidence is clear that the comparables submitted by the appellant, which are located in Grafton Township, McHenry County, sold from December 2002 to August 2005 for prices ranging from $333,344 to $396,205 or from $120.86 to $147.81 per square foot of living area including land. On the other hand, the comparables submitted by the board of review that are located in Rutland Township, Kane County, sold in March and August of 2004 for prices ranging from $369,945 to $446,019 or from $142.40 to $163.02 per square foot of living area including land. The evidence also showed the appellant purchased the subject property in August 2004 for $415,483 or $159.92 per square foot of living area including land. The Board finds the subject's 2006 assessment reflects an estimated market value of $346,937 or $133.54 per square foot of living area including land, which is considerably less that its 2004 purchase price.

In light of the Court's holding in Kankakee, the Board finds the sale dates of both parties' comparables bracket the subject's sale date. The Property Tax Appeal Board finds the subject property sold for a higher price than six of the eight comparables. In fact, the subject property sold for more than all of the comparables submitted by the appellant, which are located in the different assessment jurisdiction of Grafton Township, McHenry County. Based on the limited market value evidence contained in this record, the Property Tax Appeal Board finds for some inherent reason similar Buckingham model dwellings located in Rutland Township, Kane County, sell for consistently higher sale prices than Buckingham model dwellings located in Grafton Township, McHenry County. Notwithstanding the legal jurisdictional issues surrounding this instant appeal, the Property Tax Appeal Board finds the subject property's higher improvement assessment when compared to similar properties' assessments located in Grafton Township, McHenry County is well justified giving consideration to the credible market evidence contained in this record. In fact, the Property Tax Appeal Board finds a preponderance of the market value and equity evidence submitted by the parties suggest the subject property, like other properties located in Rutland Township, Kane County, are all under-assessed in relation to their fair market value. In conclusion, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed even in light of his legal arguments.

In considering the appellant's legal arguments, the Property Tax Appeal Board finds the appellant's comparables are located in the different assessment jurisdiction of Grafton Township, McHenry County, whereas the subject property is located the assessment jurisdiction of Rutland Township, Kane County. This Board fully recognizes the shared taxing districts between the properties located in the Sun City development of the overlapping Counties of Kane and McHenry. Nevertheless, the Property Tax Appeal Board gave diminished weight to the assessment comparables submitted by the appellant due to their location in the different assessment jurisdiction of Grafton Township, McHenry County. In Cherry Bowl v. Property Tax Appeal Board, 100 Ill.App.3d 326, 331 (2nd Dist. 1981), the appellate court held that evidence of assessment practices of assessors in other counties is inadmissible in proceedings before the Property Tax Appeal Board. Moreover, the Court observed that the interpretation of relevant provisions of the statutes governing the assessment of real property by assessing officials in other counties was irrelevant on the issue of whether the assessment officials within the particular county where the property is located correctly assessed the property. Therefore, based on the latter finding in Cherry Bowl, the Property Tax Appeal Board finds the assessments of similar properties located in Grafton Township, McHenry County, are not relevant or probative of whether the assessments established by Kane County assessment officials are correct.

The appellant also argued taxpayers of Sun City properties, Rutland Township, Kane County, pay 90% of their property taxes to the same taxing districts as property owners in Grafton Township, McHenry County. The appellant argued that since Rutland Township assessments for the same model home are substantially higher than Grafton Township, property owners in Rutland Township pay proportionately higher property taxes to the shared taxing districts, which is inequitable. However, the appellant acknowledged the subject's assessment is equitable with similar properties within Rutland Township, as this Board has previously found.

To support the contention that assessment comparables located in a different taxing jurisdiction and county are proper to utilize and consider for uniformity purposes, the appellant cited Section 18-155 of the Property Tax Code, which provides in part:

> Apportionment of taxes for district in two or more counties. The burden of taxation of property in taxing districts that lie in more than one county shall be fairly apportioned as provided in Article IX, Section 7, of the Constitution of 1970. (35 ILCS 200/18-155).

The appellant argued that when man-made boundaries cause non-uniformity with respect to the tax burden, government bodies must correct the situation. The appellant next referred to attachments C and D, which show significant tax dollar differences between the two townships as a consequence of the

different assessment amounts. The Property Tax Appeal Board finds the appellant's reliance on this statute to be misplaced in this venue. The Property Tax Appeal Board plays no part in the calculation of tax bills of the subject property or the suggested comparables used by the appellant in this appeal. Section 1910.10(f) of the Official Rules of the Property Tax Appeal Board states:

> The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of the tax bill, or the exemption of real property from taxation. (86 Ill. Admin. Code 1910.10(f)).

Rather, it is Section 18-155 of the Property Tax Code (35 ILCS 200/18-155) which provides for a remedy, if unequal tax levies and the burden of taxation exist, through the Illinois Department of Revenue. Section 18-155 of the Property Tax Code provides in pertinent part:

> The Department may, and on written request made before July 1 to the Department shall, proceed to apportion the tax burden. The request may be made only by an assessor, chief county assessment officer, Board of Review, Board of Appeals, overlapping taxing district or 25 or more interested taxpayers. . . When the Department has received a written request for equalization for overlapping tax districts as provided in this Section, the Department shall promptly notify the county clerk and county treasurer of each county affected by that request that the tax bills with respect to property in the parts of the county which are affected by the request may not be prepared or mailed until the Department certifies the apportionment among counties of the taxing districts' levies, except as provided in subsection (c) of this Section. . . .
>
> The Department may conduct hearings, at which the evidence shall be limited to the written presentation of assessment ratio study data. . .
>
> Use the township assessment ratio studies to apportion the amount to be raised by taxation upon property within the district so that each county in which the district lies bears that burden of taxation as though all parts of the overlapping taxing district had been assessed at the same proportion of actual value. The Department shall certify to each County Clerk, by March 15, the percent of burden. Except as provided below, the County Clerk shall apply the percentage to the extension as provided in Section 18-45 to determine the amount of tax to be raised in the county. . .
>
> Any adjustments necessitated by the procedure authorized by this Section shall be made by increasing or decreasing the tax extension by fund for each taxing

district where a prior certified percentage was used. (35 ILCS 200/18-155) (See also 105 ILCS 5/17-3A).

In reviewing the statute cited it is clear the Property Tax Appeal Board has no jurisdiction over the appellant's legal argument with respect to uniformity of assessments and property taxes regarding properties located in shared taxing districts, but located in a different assessment jurisdiction. The statute indicates the remedy regarding the appellant's inequity claim lies within the venue of the Department of Revenue pursuant to Section 18-155 of the Property Tax Code. (35 ILCS 200/18-155).

The appellant also cited numerous court cases to support the proposition of unequal treatment in the assessment process. In People ex rel. Bracher v. Millard, 307 Ill. 556, 139 N.E. 113 (1923), the Illinois Supreme Court held that equalization of assessments is the adjustment of graduated values of property as between different taxing districts so that the whole tax imposed by a taxing district shall be proportional to the value of the taxable property within its limits so that one owner shall not pay a higher tax in proportion to the value of its taxable property than another owner. The appellant claims a similar statement was made by the Illinois Supreme Court in Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 229 Ill.Dec. 487, 692 N.E.2d 260 (1998). The appellant argued the Illinois Supreme Court reiterated its consistent position in Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). In this case, the Court held the uniformity requirement prohibits taxing officials from valuing one kind of property within a taxing district at a certain proportion of its true value while valuing the same kind of property in the same district at a substantially lesser or greater proportion of its true value. The principle of uniformity in taxation requires equity in the burden of taxation. See also Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). In People ex rel. Hawthorne v. Bartlow, 111 Ill.App. 3d 513, 520 (4th Dist. 1983), the court held that an equal tax burden cannot exist without uniformity in both the basis of assessment and in the rate of taxation.

The appellant placed most emphasis to support his contention that the subject property is inequitably assessed compared to other similar properties within the same taxing district, but located in a different assessment jurisdiction and county, on the Illinois Supreme Court ruling of People ex rel. Skidmore v. Anderson, 56 Ill. 2d 334, 307 (1974). The appellant relied on the Court's holdings that the circumstances that properties may lie in different counties should not preclude a comparison of their respective assessment levels to determine if there is constructive fraud, when the properties lie within the same taxing district or districts. The Board finds the appellant's reliance on Skidmore to be misplaced. The Board finds Skidmore involved the legal challenge by property owners to 1970 real estate taxes. Since the time of the Skidmore decision, the legislature has set forth a specific mechanism to **challenge**

unequal tax levies as provided in Section 18-155 of the Property Tax Code. (35 ILCS 200/18-155). The Property Tax Appeal Board further finds the Court in Skidmore pointed out that it was appropriate to observe that Section 7 of Article IX of the Constitution of 1970 recognized the problem illustrated in the appeal. The Court noted the new constitution provided that the General Assembly may enact laws to require apportionment of the burden of taxation of property situated in taxing districts that lie in more than one county. The Court noted the legislature enacted a statute which provides for the future a method of apportioning the burden of taxation of property in taxing districts lying in more than one county, if one or more of the counties has a population of at least 200,000. (Pub.Act 78-724 (1973) 78th Gen.Assembly, now codified in the Property Tax Code under 35 ILCS 200/18-155 through 18-160).

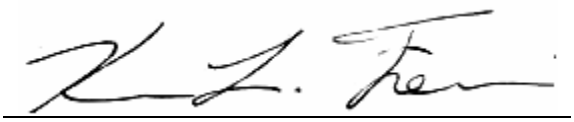
Even if the test in Skidmore were applied in this appeal, it would not show the subject's assessment was incorrect or inequitable. The 2006 three-year median level of assessment for Rutland Township, Kane County was 33.33%, identical to the 2006 three-year median level of assessment for Grafton Township, McHenry County of 33.33%. (See Illinois Department of Revenue PTAX-215, Assessment Ratios Adjusted for Changes through the 2006 assessment year for Kane and McHenry Counties).

Based on this analysis, the Property Tax Appeal Board finds much of the legal authorities and case law cited regarding uniformity of assessments by the appellant applies to levels of assessment, the amount of actual real estate tax dollars paid, or the extension tax rate or levy, in which this Board has no jurisdictional authority.

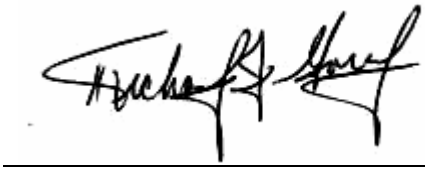
In conclusion, the Board finds the appellant failed to show the subject property was inequitably assessed by clear and convincing evidence. Therefore, the Property Tax Appeal Board finds the subject's assessment as established by the board of review is correct and no reduction is warranted.

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



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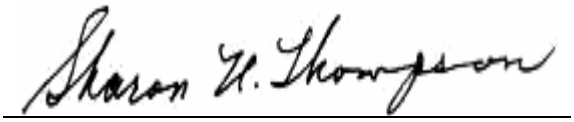

Member

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 31, 2008

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.