

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Daniel and Carol Pickert
DOCKET NO.: 06-01772.001-R-1
PARCEL NO.: 13-20-300-029

The parties of record before the Property Tax Appeal Board are Daniel and Carol Pickert, the appellants, and the Kane County Board of Review.

The subject property consists of a vacant residential lot containing 6.06 acres located in Big Rock Township, Kane County. Two thirds of the lot is wooded with a bluff and a creek while approximately one-third of the lot is open land.

The appellant, Carol Pickert, appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal. In support of the inequity claim, the appellants submitted photographs, multiple maps and a grid analysis of eight land comparables located from two parcels west to five miles from the subject. The land comparables range in size from 4.45 to 10 acres and have land assessments ranging from \$41,888 to \$76,542 or from \$7,274 to \$9,413 per acre. The subject property has a land assessment of \$96,657 or \$15,950 per acre, or from 70% to 119% higher than the comparables.

The appellant argued comparable 1 sold in July 2006 for \$360,000 or \$66,055 per acre and has a land assessment of \$46,200 or \$8,477 per acre. The appellant acknowledged she purchased the subject lot in June 2006 for \$375,000 or \$61,881 per acre. However, she argued the subject lot is assessed considerably higher at \$96,657 or \$15,950 per acre than comparable 1.

The appellant also argued almost one-half of the subject property is located in a designated flood plain that cannot be used for a potential building site or farming. (Exhibits B & BB) The appellant argued comparables 1 through 3 are very "useable", but are assessed considerably less than the subject. The appellant contends comparables 4 through 7, which are located in Muellers Subdivision, are located in the same flood plain and have the same creek influence as the subject. Like the subject, the appellant argued these comparables have similar open fronts with

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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:	\$	60,600
IMPR.:	\$	0
TOTAL:	\$	60,600

Subject only to the State multiplier as applicable.

trees on the rear portions of their lots. The appellant further argued comparable 8 has similar creek, flood plain and dense tree influences like the subject, but is assessed considerably less than the subject. The appellant argued the township assessor chased sales and the subject property was not treated equal in the assessment process. The appellant argued neighboring properties (parcel numbers 13-20-300-028 and 13-20-300-030), like the subject, had their classifications changed in 2006 from farmland to residential land based on their selling prices of \$285,000 in January 2005 and \$304,900 in November 1, 2004. The appellant noted the subject property first sold in August 2004 for \$260,000 and she then purchased the subject lot in June 2006 for \$375,000. Finally, the appellant argued the subject parcel has been enrolled and accepted into a forestry management plan for the 2008 assessment year. Based on this evidence, the appellants requested a reduction in the subject's land assessment to \$50,900.

Under cross-examination, the appellant, Carol Pickert, was questioned regarding the amount of trees, water or creek influences, and the relative distance of the comparables in relation to the subject. She agreed comparables 4 through 7, which are located in Muellers Subdivision, are comprised of lots that do not have as many trees as the subject lot. However, she argued the subject lot has an abundance of scrub trees. The comparables in Muellers Subdivision have the same creek influence at their rear property lines that bi-sect the subject lot. The appellant disagreed the subject property is comprised of "virgin forestland" based on conversations with a district forester from the Illinois Department of Natural Resources during inspection of the subject property. The appellant conceded the subject lot has more trees on the rear portion of the site when compared to properties in Muellers Subdivision.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$96,657 was disclosed. The board of review considered the subject to be a "premium site" due to its natural woodlands, the creek and bluff with a view, which are positive market attributes.

In support of the subject's assessment, the board of review submitted property record cards, photographs and an assessment analysis of four suggested land comparables. The comparables are reported to be located from next door to 1+ mile from the subject. Two comparables are located in Deerwood Subdivision on Swan Road and one comparable is located in Lake Woodside Subdivision. The comparables contain from 4.73 to 6.13 acres. Comparables 1 and 3 are described as having 85% and 90% of their lots having woods with creek or pond influence. Comparable 2 has "some trees" and comparable 4 has 85% woods, neither having a water influence. The comparables have land assessments ranging from \$96,657 to \$129,052 or from \$15,768 to \$22,098 per acre. The board of review argued the subject's land assessment of \$96,657 or \$15,950 per acre is supported by these comparables.

Comparables 1 and 3 sold in January 2005 for \$285,000 and \$300,000 or \$46,493 and \$63,425 per acre, respectively. They each have a land assessment of \$96,657, which reflects an estimated market value of approximately \$290,000. Again the subject property was purchased by the appellants in June 2006 for \$375,000 or \$61,881 per acre. The subject's land assessment of \$96,657 reflects an estimated market value of approximately \$290,000.

The board of review also submitted a letter and a valuation analysis prepared by the Big Rock Township Assessor, Rebecca Byington. Byington was present at the hearing to provide testimony and be cross-examined regarding the evidence she prepared in connection with the appeal. The assessor's letter and testimony indicate all property in Big Rock Township is assessed as of January 1 of any given year. The subject parcel was assessed as farmland in 2005, but was changed to a residential classification for the 2006 assessment year since no crops were grown nor was the land used to pasture farm animals. The assessor agreed part of the subject parcel lies within a floodplain due the location of a creek, but creeks always have some flood plain on either side of their banks and most property owners view creeks or ponds as an asset. The township assessor testified that for the 2006 assessment year, land sales from 2003, 2004 and 2005 were used to revalue parcels located in Deerwood Subdivision on Swan Road, Lake Woodside Subdivision, and three parcels located on Jericho Road, which included the subject parcel.

In further support of the subject's assessment, the assessor submitted an analysis of ten suggested comparables. However, four comparables were used and submitted by the board of review; three comparables received a preferential developers assessment (35 ILCS 200/10-30); and one comparable receives a preferential farmland assessment (35 ILCS 200/10-110 et al.). Therefore, the assessor's analysis contains two additional comparables for the Board's consideration. One comparable is located in Deerwood Subdivision on Swan Road and the other comparable is located in Lake Woodside Subdivision, which is approximately 1+ mile from the subject. The two additional comparables contain 3.91 and 4.75 acres and have land assessments of \$87,111 and \$96,657 or \$20,349 and \$22,279 per acre, respectively. One comparable sold in September 2003 for \$240,000 or \$61,381 per acre.

With respect to the comparables submitted by the appellant, the assessor argued comparable 1 is only 33% wooded and does not have a creek or pond. In addition, its \$260,000 sale price was not considered due to its July 2006 sale date. Comparable 2 does not have a creek or pond. Comparable 3 does not have a creek or a pond and the assessor contends the property is landlocked, however, an aerial photograph of the parcel shows an access at one point and road access at another point. Comparables 4 through 7, which are located in close proximity to the west of the subject in Muellers Subdivision, back up to the same creek as

the subject, but are slightly smaller in size and do not have as many trees as the subject. Comparable 8 is wooded, backs up to a creek and has a private drive that services three homes. The assessor agreed appellants' comparable 8 is under-assessed at \$56,606 or \$7,507 per acre. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination, the assessor acknowledged board of review comparable 1 is located next to the subject and its assessment is being appealed before the Property Tax Appeal Board under Docket Number 06-01798.001-R-1. The appellant argued this comparable should not be used because its land assessment is under appeal. The board of review also agreed its comparables 2 through 4 are not located in a flood plain. The assessor was also questioned regarding the method used to value the subject parcel. The assessor explained there were a limited number of land sales with woods that occurred from 2003 to 2005. In 2006, the assessor explained she used these land sales to revalue the three lots on Jericho Road, including the subject, and properties located in Deerwood Subdivision on Swan Road and Lake Woodside Subdivision. She did not revalue the properties in Muellers Subdivision because they did not contain as many trees, although they have the creek influence. The assessor also stated appellants' comparable 8 receives a partial farmland assessment, but could not recall the amount of acreage that is farmed. However, its property record card revealed comparable 8 did not receive a farmland assessment for the 2006 assessment year, as pointed out by the appellant. The assessor was next questioned why she did not reassess appellants' comparables 2 and 3, which are heavily wooded. The assessor's response was that these parcels do not have creeks, ponds or bluffs.

In rebuttal, Carol Pickert argued the board of review's comparables are located a considerable distance from the subject and have no creek influence. In addition, comparable 2 has only some trees. The appellant further pointed out some of the comparables submitted on behalf of the board of review are smaller and do not have water influences, dissimilar to the subject. The appellant also argued comparable 2 submitted by the board of review has "some trees", which detracts from the board of review's contention regarding the comparability aspect as to the amount of trees.

Under questioning by the Hearing Officer, the assessor testified she reassesses almost every property in the township every year, even in non-quadrennial assessment years, unless she feels some particular properties' assessments do not need to be changed. The Hearing Officer also questioned the assessor regarding the method of quantifying the value of trees, creeks or bluff views. Based on her experience, the assessor testified the value of wooded sites have become more valuable in recent years. The assessor was also questioned regarding the specific method used to value land in the subject's area, but she could not provide a set methodology that was used, even in considering the citation of the vacant land sales.

At the conclusion of the hearing, the Property Tax Appeal Board ordered the board of review to submit a map of Big Rock Township depicting the proximate location of both parties' comparables in relation to the subject. The board of review complied with the order. The map revealed appellant's comparables 1 through 3 were accurately described as being located 2 to 5 miles from the subject. Meanwhile, the board of review comparables 2 through 4 were not accurately described as being located 1+ mile from the subject; the map depicts these board of review comparables are actually located approximately 3 miles from the subject.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject property's assessment is warranted.

The appellants argued unequal treatment in the assessment process regarding the subject's land assessment. 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 appellants have overcome this burden.

The Property Tax Appeal Board finds the parties submitted a total of 14 suggested land comparables for consideration. The Property Tax Appeal Board gave less weight to nine of the comparables. The Board recognizes the varying degrees of similarity and dissimilarity of these nine comparables in comparison to the subject in terms of size, amount of trees and water influences. However, after reviewing the township location map of the comparables in relation to the subject, the Board finds appellants' comparables 1, 2 and 3 as well as board of review comparables 2, 3, 4, 5 and 6 to be located a considerable distance from the subject.

The Property Tax Appeal Board also gave diminished weight to comparable 1 submitted by the board of review. The evidence and testimony revealed this comparable is under appeal on the basis of uniformity before the Property Tax Appeal Board under Docket Number 06-01798.001-R-1. Furthermore, for purposes of all due fairness, the Board shall not utilize this property as an assessment comparable, which would self validate both properties' same contested land assessments. (See Pace Realty Group, Inc. v. Property Tax Appeal Board, 306 Ill.App. 3d 718 (2nd Dist. 1999)).

The Property Tax Appeal Board finds the five remaining comparables submitted by the appellants to be most similar to the subject in location and size. The Board further recognizes these comparables have a similar creek influence, but do not have the

same amount of tree density as the subject. These most similar comparables range in size from 4.45 to 7.54 acres and have land assessments ranging from \$41,888 to \$56,606 or from \$7,507 to \$9,413 per acre. The subject property has a land assessment of \$96,657 or \$15,950 per acre, which is considerably higher than the most similar land comparables contained in this record. After considering adjustments to the comparables for differences when compared to the subject, such as size, view, tree density, and water influences, the Property Tax Appeal Board finds the subject's land assessment is excessive.

The Property Tax Appeal Board finds proof of uniformity 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.] See 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 the evidence is clear that six of the comparables submitted by the parties sold from July 1998 to July 2006 for prices ranging from \$240,000 to \$360,000. These same properties have 2006 land assessments ranging from \$41,888 to \$96,657, which reflect estimated market values ranging from \$125,677 to \$289,000. The Board finds all these properties are assessed for consistently less than their sale prices, even considering four of the six sales date back to

1998 and 2003. In fact, the Property Tax Appeal Board finds a preponderance of the market value and equity evidence submitted by the parties suggests the comparables are all under-assessed in relation to their fair market value, in which the subject is entitled to this same proportional treatment. The evidence shows the appellants purchased the subject property in June 2006 for \$375,000 and has a 2006 land assessment of \$96,657, which reflects an estimated market value of \$290,261. The Board recognized the subject's 2006 assessment reflects an estimated market value less than its purchase price. However, based on the market comparisons the Property Tax Appeal Board finds the evidence shows a consistent pattern that the subject property is assessed for proportionally more than its fair cash value than other similarly situated properties. Based on the aforementioned analysis, the Property Tax Appeal Board finds an equitable assessment for the subject property is \$10,000 per acre or \$60,600.

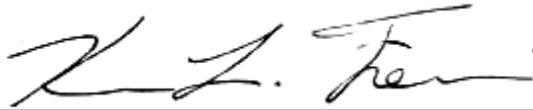
Finally, the Board finds the uniformity clause of the Illinois Constitution (Ill.Const. 1970 art. IX 4(a)) requires that taxes be levied uniformly by valuation. As stated by the Supreme Court of Illinois, "[t]he Illinois Constitution's uniformity clause requires not only uniformity in the level of taxation, but also in the basis for achieving the levels." Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 235, 692 N.E. 2d 260, 263 (1998). A county must use the same basis for determining assessed valuations for all like properties. Id. The Board finds the assessor testified she reassesses almost every property in the township every year, even in non-quadrennial assessment years, unless she feels some particular properties' assessments do not need to be changed. However, the evidence and testimony revealed the township assessor for the 2006 assessment year, a non-quadrennial assessment year, used vacant land sales from 2003, 2004 and 2005 to revalue or reassess parcels located in only Deerwood Subdivision on Swan Road, Lake Woodside Subdivision, and three select parcels located on Jericho Road, including the subject. The Board finds by selecting a small group of residential properties for reassessment or revaluation based on recent land sales without considering the reassessment of all other residential properties in Big Rock Township "unless she feels some particular properties' assessments do not need to be changed" may violate the uniformity clause of the Illinois Constitution.

In conclusion, the Board finds the appellants have demonstrated a lack of uniformity in the subject's land assessment by clear and convincing evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is incorrect and a 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

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: December 5, 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.