

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Chris Hoekstra
DOCKET NO.: 06-01798.001-R-1
PARCEL NO.: 13-20-300-028

The parties of record before the Property Tax Appeal Board are Chris Hoekstra, the appellant, and the Kane County Board of Review.

The subject property consists of a 6.13-acre parcel located in Big Rock, Big Rock Township, Kane County. The parcel is improved with a pole barn which was constructed in April 2005. The assessment of the pole barn was not contested; appellant's only dispute concerns the land assessment.

The appellant appeared before the Property Tax Appeal Board arguing the subject's land assessment is not reflective of its market value. On the appeal petition, the appellant indicated the basis of the appeal was comparable sales, however, appellant only provided one recent sale (comparable #6) which sold in July 2006 for \$360,000. Appellant's petition also acknowledged that the subject property as a vacant parcel had been purchased in January 2005 for \$285,000. Moreover, the petition indicated the construction of a pole barn done in April 2005 for an estimated cost of \$45,000. As such, the land purchase price of \$285,000 plus the pole barn construction of \$45,000 would result in a total value of approximately \$330,000.

In support of the instant appeal, the appellant presented a grid analysis of a total of eight suggested comparables with maps, aerial photographs, property record cards, size data and land assessment data. Five of the suggested comparable lots were improved and three were vacant. Given the foregoing data, this appeal will be analyzed as an assessment equity claim. (See Cotter and Co. v. Property Tax Appeal Board, 277 Ill.App.3d 538, 660 N.E.2d 1283 (2nd Dist. 1995)).

Appellant contends that comparables #1 through #5 are in or near the subject's subdivision and have similar features of a creek and flood plain at the rear of the property like the subject; each of these properties has been improved with a dwelling and may include a secondary vacant parcel of land. Appellant's size

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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:

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| LAND: | \$ | 61,300 |
| IMPR.: | \$ | 14,202 |
| TOTAL: | \$ | 75,502 |

Subject only to the State multiplier as applicable.

PTAB/cck/11-18

data has combined the size of the improved parcel and the vacant parcel. Appellant's comparables #6 through #8 are vacant land parcels. In summary, these eight suggested land comparables described by the appellant 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 parcel has a land assessment of \$96,657 or \$15,768 per acre.

As a final contention, appellant asserted a belief that the township assessor was "sales chasing" in arriving at the assessment of the subject property.

Under cross-examination, the appellant acknowledged that the dispute in the land assessment centers on the degree of "woodedness" of the subject versus the comparables depicted. Appellant also agreed that the subject is an amenity site with "virgin" woods, a bluff and a creek.

Based on this evidence, the appellant requested a reduction in the subject's land assessment to \$53,000 or \$8,646 per acre.

The Board of review presented its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$110,859 was disclosed representing a land assessment of \$96,657. The subject's total assessment reflects a market value of approximately \$332,610 using the 2006 three-year median level of assessments for Kane County of 33.33%.

In support of the current land assessment, the board of review presented a grid analysis of four comparable properties, one of which neighbors the subject and the remainder of which are located within "1+ mile" of the subject. All of the comparables are said to be within Big Rock Township like the subject. Two of the comparables sold in January 2005 and June 2006 for prices of \$300,000 and \$375,000 or \$61,881 and \$63,425 per acre, respectively.

In this analysis, the board of review also presented land sizes and some amenity descriptions along with total land assessments and land assessments per acre. The board of review's four suggested comparables range in size from 4.73 to 6.06-acres. Three of the comparables are described as 85% to 90% woods; the other comparable is described as "some trees"; two of the four comparables are described as having a creek or a pond. These suggested comparable properties have total land assessments ranging from \$96,657 to \$129,052 or from \$15,950 to \$22,098 per acre. The subject is described by the assessor as 85% to 90% wooded with a creek running through it. The board of review representative asserted that this range of suggested comparable properties shows uniformity in assessment.

In addition, the board of review representative highlighted one parcel set forth among additional data submitted in this matter by the assessor. This particular parcel contains 6.95-acres and has a farmland assessment of \$173. The board of review

representative contended this suggested comparable sold in November 2004 for \$304,900 and was another valid sale to support the subject's assessment.

For purposes of the instant appeal, the assessor also responded to the appellant's evidence filed in this matter pointing out certain pertinent characteristics of the properties. For instance, the assessor noted appellant's comparable #6 was 30% to 35% wooded, scruffy woods, with no water amenity at all and it is on a little bit smaller acreage. Appellant's comparables #7 and #8 are wooded with no pond or creek; additionally, comparable #8 is landlocked. The assessor further acknowledged that appellant's comparables #1 through #4, all in Mueller Subdivision, back up to or, to be more exact, border, the same creek which runs through the subject property, however, these comparables have only a few trees, some of which were planted as part of residential landscaping, and are all smaller parcels than the subject. As to appellant's comparable #5, the assessor notes it is wooded and backs up to the creek while being attached to a farmland assessment; according to the assessor's testimony, there was an error in the assessment of appellant's comparable #5 which should have been higher and has since been corrected.

Upon a question of assessment methodology for woodlands asked by the Hearing Officer, the Big Rock Township Assessor testified that while the township is large, there are not many sales in any one given year, but she utilizes the sales that have been available to her. To determine the "degree" of woodedness, the assessor uses two main tools: visual examination and/or walking the property and Sidwell aerial maps. When asked by the Hearing Officer why board of review comparable #4 with 85% woods and no water amenity was assessed at \$22,098 per acre as compared to the subject parcel of 85% woods and water feature was assessed at \$15,768 per acre, the assessor indicated that in 2006 she re-valued the properties in the areas where she had sales from 2004 and 2005 that were occurring. More specifically, in her written submission to the Property Tax Appeal Board, the assessor stated in pertinent part:

We have few sales in Big Rock Township; usually between 15 and 20 good sales a year. Land sales are quite rare. We did have several good sales of vacant heavily wooded parcels, most with water; creek or pond, in 2003, 2004, and 2005. The parcels ranged in size from just under 4 acres to just under 8 acres. I used these sales to revalue parcels in 2006 in Deerwood on Swan Subdivision, Lake Woodside Subdivision, and three parcels on Jericho Road one of which is our subject, 13-20-300-028.

In summary, in determining assessments the assessor testified that she watches what the market tells her about those properties.

Based on the characterization of the subject property as an amenity site with "85% woods" and a "bluff overlooking creek," the board of review requested confirmation of the subject's land assessment of \$96,657 or \$15,768 per acre.

For oral rebuttal evidence, appellant testified that three of the four comparables presented by the assessor are parcels which have been improved with a dwelling rather than vacant parcels like appellant's comparables #6 through #8. Moreover, while the assessor criticized the appellant's use of smaller parcels such as appellant's comparables #1 through #4, the assessor similarly utilized board of review comparables #3 and #4 of 4.73 and 5.84-acres, respectively, which were similar in size to those criticized comparables. Appellant also noted that board of review comparable #1, a property neighboring the subject, is also pending an appeal before the Property Tax Appeal Board. (Records of the Property Tax Appeal Board reflect the appeal of board of review comparable #1 as Docket No. 06-01772.001-R-1. 86 Ill.Adm.Code Sec. 1910.90(i)).

After hearing the testimony and reviewing the record, 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 property's land assessment is warranted.

Based upon the evidence presented, the appellant contends unequal treatment in the subject's land assessment as the basis of the appeal. (See Cotter and Co., supra.) 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 concludes that the appellant has overcome this burden and thus finds a reduction in the subject's land assessment is warranted.

In all, the parties submitted twelve suggested comparable land parcels for consideration. The Property Tax Appeal Board takes official notice that the Hearing Officer who conducted the hearing in Docket No. 06-01772.001-R-1 (neighboring property and board of review comparable #1 in this appeal) ordered the board of review to submit a map of Big Rock Township depicting the proximate location of both parties' comparables in relation to one another and the subject in that appeal which map was provided in that matter. (86 Ill.Admn.Code Sec. 1910.90(i)). Upon analysis the Property Tax Appeal Board finds that both parties in both this matter and in Docket No. 06-01772.001-R-1 used identical comparables, except that the "subject" and "board of review comparable #1" were 'reversed' to suit each case.

The Board further finds that the map supplied in Docket No. 06-01772.001-R-1 revealed that this appellant's comparables #1

through #5 were accurately represented as being in Mueller's Subdivision and in very close proximity to the subject property in this matter. Meanwhile, the board of review's comparables #2, #3 and #4 were at best ill-defined and/or imprecisely described as being "1+ mile" from the subject property; the map of the township reveals these comparables are actually located some 3 miles from the subject. Similarly, the map reveals that this appellant's comparables #6, #7 and #8 are located from 2 to 5 miles from the subject.

In examining the similarity of the appellant's suggested comparables to the subject property, the Board has given less weight to six of the suggested comparables. After reviewing the township location map referenced above, the Board finds appellant's comparables #6, #7, and #8 along with board of review comparables #2, #3 and #4 to be located a considerable distance from the subject and thereby detracting from their similarity to the subject.

Additionally, the Property Tax Appeal Board has given diminished weight to board of review comparable #1 since the evidence established that this comparable is under appeal before the Board as Docket No. 06-01772.001-R-1. As the court clearly stated in Pace Realty Group, Inc. v. Property Tax Appeal Board, 306 Ill.App.3d 718, 713 N.E.2d 1249 (2nd Dist. 1999), the Property Tax Appeal Board would err as a matter of law if it selects as a comparable a parcel of property which has also received the same contested assessment. *Id.* at 728, 1256. "Conducting uniformity analysis in such a manner will lead to absurd results and will render the assessment appeal process meaningless." In other words, as appellant pointed out in his "sales chasing" documentation, the subject property and board of review comparable #1 have identical 2006 land assessments of \$96,657. As noted on the board of review's grid analysis, this equates to the subject having a land assessment of \$15,768 per acre and its comparable #1 having a land assessment of \$15,950 per acre. As the court noted, utilization of board of review comparable #1 under these particular circumstances would be essentially self-validating.

The Board recognizes the varying degrees of similarity and dissimilarity of the remaining five comparables presented by the appellant in comparison to the subject in terms of amount of trees and perhaps even water influences and/or bluff views, and in one case even access. However, the evidence is clear and the Board finds that these five remaining comparables submitted by the appellant are the most similar comparables to the subject in terms of size and location on this record. The Board further notes these comparables have a similar creek influence even if they may not have the same amount of tree density as the subject. These five 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 \$15,768 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 influence(s), the Property Tax Appeal Board finds the subject's land assessment is excessive.

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 (1960), 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 omitted.]

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 omitted.] *Id.* 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. Furthermore, the Supreme Court of Illinois in Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228 (1998), set forth the basic tenets of the Illinois Constitution's uniformity clause requirement as it relates to the assessment and taxation of real estate. The court stated that:

The Illinois property tax scheme is grounded in article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes "shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Uniformity requires equality in the burden of taxation. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.

2d 1, 20 (1989). This, in turn, requires equality of taxation in proportion to the value of property being taxed. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960). Thus, taxing officials may not value the same kinds of properties within the same taxing boundary at different proportions of their true value. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d at 20 (1989). The party objecting to an assessment on lack of uniformity grounds bears the burden of proving the disparity by clear and convincing evidence . . . Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d at 22 (1989).

Walsh v. Property Tax Appeal Board, 181 Ill. 2d at 234 (1998). The uniform assessment requirement mandates that property not be assessed at substantially greater proportion of its value when compared to similar properties located within the taxing district. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d at 21 (1989). Having considered the evidence presented, the Board concludes that the appellant met this burden and thus finds a reduction is warranted.

The Property Tax Appeal Board finds the subject property as vacant sold in January 2005 for \$285,000. Moreover, the Board finds the evidence is clear that five of the parties' twelve suggested comparable properties sold between July 1998 and July 2006 for prices ranging from \$289,900 to \$375,000. These same properties have 2006 land assessments ranging from \$41,888 to \$96,657, which reflect estimated market values ranging from \$125,677 to \$290,000 based on the Kane County three-year median level of assessments of 33.33%. Based on this record, the Property Tax Appeal Board finds all of these properties have been assessed at consistently less than their sale prices, even given that two of the sales date back to 1998. Given the fact that a preponderance of the market value and equity evidence establishes that the comparables are all under-assessed in relation to their fair market value, the Property Tax Appeal Board finds that the subject property is entitled to this same proportional treatment.

The subject has a 2006 land assessment of \$96,657, which reflects an estimated market value based on Kane County's three-year median level of assessments of \$290,000. The Board recognizes that this 2006 assessment is roughly equivalent to the subject's recent purchase price, however, the Board also finds based on the market evidence the subject is assessed for proportionally more than its fair cash value as compared to other similarly situated properties. Based on the aforementioned analysis, the Property Tax Appeal Board finds an equitable assessment for the subject property on this record is \$10,000 per acre or \$61,300.

Finally, the Property Tax Appeal Board reiterates that the uniformity clause of the Illinois Constitution as referenced above requires that taxes be levied uniformly by valuation. The evidence in this matter revealed that the township assessor for the 2006 assessment year, a non-quadrennial assessment year, used

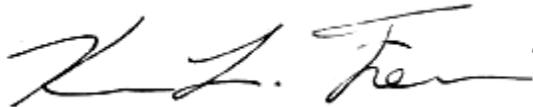
vacant land sales from 2003, 2004 and 2005 to revalue or reassess parcels located only in two selective subdivisions along with three selective parcels on Jericho Road, including the subject and the parcel which is the subject of Docket No. 06-01772.001-R-1. The Board finds by selecting a small group of residential properties for reassessment or revaluation based on recent land sales without considering reassessment of all other residential properties in Big Rock Township, the township assessor may be violating the uniformity clause of the Illinois Constitution.

In conclusion, the Board finds the appellant has demonstrated a lack of uniformity in the subject's land assessment by clear and convincing evidence. Therefore, the Board finds the subject property's land 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.