



**FINAL ADMINISTRATIVE DECISION  
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Mark Lurvey  
DOCKET NO.: 06-23734.001-C-2 through 06-23734.009-C-2  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Mark Lurvey, the appellant(s), by attorney Edward Larkin, of Larkin & Larkin in Park Ridge; the Cook County Board of Review by Cook County Assistant State's Attorney Aaron Bilton; and Des Plaines C.C.S.D. #62 and Maine T.H.S.D. #207, the intervenors, by attorney Scott Metcalf of Franczek Radelet P.C. in Chicago.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
06-23734.001-C-2	09-15-306-017-0000	12,913	115	\$13,028
06-23734.002-C-2	09-15-306-018-0000	12,913	1,145	\$14,058
06-23734.003-C-2	09-15-306-019-0000	12,913	120	\$13,033
06-23734.004-C-2	09-15-306-037-0000	12,866	429	\$13,295
06-23734.005-C-2	09-15-306-045-0000	25,733	3,889	\$29,622
06-23734.006-C-2	09-15-306-049-0000	3,599	93	\$3,692
06-23734.007-C-2	09-15-306-052-0000	19,889	93	\$19,982
06-23734.008-C-2	09-15-306-053-0000	14,538	93	\$14,631
06-23734.009-C-2	09-15-306-054-0000	14,706	938	\$15,644

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of nine parcels of land totaling 108,026 square feet with one parcel improved with a one-story frame building consisting of 2,500 square feet, one parcel improved with a one-story shed consisting of 720 square feet, and the remaining parcels containing site improvements of crushed stone. The appellant, via counsel, argued that the fair market value of the subject is not accurately reflected in its assessed value as the basis of this appeal.

At hearing, a preliminary matter was addressed. The PTAB docketed the appeal as a class 2, requesting a reduction of \$100,000 or more which requires a court reporter for hearing purposes. The appellant indicated that there was a typographical error in the request for a reduction regarding the improved parcel and that the correct request is under \$100,000 which would allow for electronic recording of the hearing. The board of review and intervenors objected to an electronic recording of the hearing, but indicated that there was a typographical error. The PTAB finds that the total request on the petition is for less than \$100,000, and that a numerical error existed when adding up each individual parcel's requested reduction. Therefore, the appellant is not required to provide a court reporter and an electronic recording of the hearing is sufficient.

In support of the argument, the appellant submitted a brief asserting that the subject property is located in a Federal Flood plain and Federal Floodway with two creeks adjacent to the property and has been designated by the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area. The appellant also asserts there are further restrictions placed on the property by the Village of Des Plaines and that the unimproved parcels are not buildable. He argues these restrictions and the flood control required of the property devalue it.

The appellant's brief asserts the subject should receive a land value of \$1.00 per square foot consistent with a property situated in a Federal Flood Zone AE, flood plain and floodway.

The appellant asserts that he was required to reduce the grade level of the land by several feet for purposes of flooding prevention. He argues that his property is used for flood control for the adjacent businesses as his property floods continually.

The appellant included the following documents to support his argument: colored photographs of a portion of the subject property and the road behind the property; copies of the assessor's website printouts for each parcel; a copy of an aerial FEMA map of portions of the Cities of Des Plaines and Park Ridge; a copy of a Sidwell map for block 306 which includes the subject property; an aerial map of the subject parcel and adjoining parcels; a copy of a City of Des Plaines Internal Floodway Map for the subject parcel; a copy of a FEMA Floodway map for the subject parcel; a copy of an article flooding along the Des Plaines River; and a copy of the City of Des Plaines Flood Control Regulations.

At hearing, the appellant's attorney, Edward Larkin, argued that the subject property, along with the other parcels that make up the appellant's garden center business, are located within a flood plain and should be assessed at 25% of its market value. Mr. Larkin cited 35 ILCS 200/10-166 as supporting the argument

that the subject is a conservation area and should be assessed accordingly.

The appellant's attorney asserted that the best comparables are the board of review's two suggested comparables located on Golf Road, but argued that they are in better condition than the subject.

He argued the subject contains between 50 and 70 drainage sewers that are used for drainage of the creeks and the Des Plaines River located adjacent to or near the subject.

He argues that Appellant's Exhibit #1, a copy of the floodway map, shows the floodway. Mr. Larkin also argues that the businesses surrounding the appellant's business are not located within the floodway or flood plain.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$136,985 yielding a market value of \$360,487 per square foot of building area, including land, using the Cook County Real Property Classification Ordinance for Class 5a property of 38%. The board also submitted two grids. The first grid included sales data on four properties in the subject's neighborhood. The sales occurred between June 2001 and April 2004 for prices ranging from \$340,000 to \$5,166,000. The grid does not include any information about the characteristics of these properties other than they are commercial. The second grid includes assessment data on four parcels located within a mile of the subject. These parcels are commercial properties with minor improvements and range in size from 16,920 to 16,980 square feet. No descriptions of any minor improvements were provided for these parcels only a listing of the assessed values and the market values at \$6.00 a square foot. Based on this evidence, the board of review requested confirmation of the subject's assessment.

The board of review's attorney argued that not all of the subject property is located within the flood zone that the appellant argues the subject is in. Each party indicated on Appellant's Exhibit #1 where they believed the subject property to be located in regards to the flood plain.

The intervenors adopted the board of review's evidence and at hearing argued that the appellant did not meet the requirements of 35 ILCS 200/10-166 to meet the burden of proof in this matter.

In rebuttal, the appellant submitted a letter asserting that the board of review did not respond to the appellant's floodway arguments.

After considering the evidence and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the

evidence. *Property Tax Appeal Board Rule 1910.63(e)*. Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Property Tax Appeal Board Rule 1910.65(c)*.

As to the argument that the subject property is devalued due to the subject's location on a floodway, the PTAB finds that appellant failed to establish the value lost by this. The subject property is being used as a landscape business. The appellant's own evidence shows that the appellant uses the land in a way that generates revenue for the business. Therefore, the property is not completely unusable. The appellant cited the Property Tax Code to assert a value for the land at \$1.00 per square foot. However, the appellant failed to show that the property met the requirements of the code to qualify as land registered or encumbered by conservation rights. 35 ILCS 200/10-166. Therefore, the PTAB finds the appellant failed to meet the burden of proof and reduction 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.

*Ronald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario M. Louie*

Member

*Shawn R. Lerski*

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: February 18, 2011

*Allen Castrovillari*

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.