



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

APPELLANT: Robert Day, Jr.
DOCKET NO.: 07-01108.001-R-1
PARCEL NO.: 14-33-180-016

The parties of record before the Property Tax Appeal Board are Robert Day, Jr., the appellant, and the Peoria County Board of Review.

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

LAND: \$7,710
IMPR: \$0
TOTAL: \$7,710

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a vacant parcel of 7,708 square feet of land area. The property was said to be zoned as "neighborhood commercial" and is located in Peoria, City of Peoria Township, Peoria County.

The appellant appeared before the Property Tax Appeal Board contending both unequal treatment in the assessment process and overvaluation of the subject property. The appellant testified the parcel is "just a branch yard" or green space that is 47 feet wide and 164 feet deep which enhances the appearance of the neighboring improved lot which is used as appellant's law office.

As to overvaluation and "comparative values," the appellant noted that the subject vacant lot was purchased along with a neighboring improved lot in July 1996 for a total of \$78,500. Appellant further noted as shown in the documentation submitted that the two parcels together in 1997 had assessments that totaled a market value of \$84,270. Based on the 1997 assessment data and the total purchase price, appellant contends the ratio breaks down to a value of about \$5,000 for the vacant lot alone.¹

¹ The documentation which included the 1997 assessment for the vacant parcel indicated a 1997 fair market value of \$10,740.

Appellant further testified that the assessments for 2003 and 2006 of the subject parcel reflected market values of \$8,008 and \$9,360, respectively. While recognizing that the 1996 purchase was not a 'recent' sale, the appellant argued it reflected the overvaluation of the subject vacant lot which in 2007 had an assessment of \$7,710 or a market value of approximately \$23,130. Appellant further argued that the subject neighborhood was a mixed commercial and residential area that was somewhat a declining area as of 2007.

At hearing, appellant reviewed sales data he had gathered and previously presented to the board of review in support of his initial appeal of the subject parcel. One of the properties was a vacant 3,600 square foot lot zoned neighborhood commercial; while it sold in June 2007 as part of a seven parcel sale and so an individual sale price could not be ascertained, the parcel had a 2007 assessment of \$1,510 or \$0.42 per square foot of land area. Another vacant 3,200 square foot parcel zoned neighborhood commercial sold in July 2005 as part of a three parcel sale and in 2007 had an assessment of \$1,640 or \$0.51 per square foot of land area. Lastly, a 4,000 square foot vacant lot zoned neighborhood commercial sold in 2007 for \$2,500 or \$0.63 per square foot of land area.

For the inequity argument as presented in Section V of the appeal form, the appellant submitted information on four comparable properties said to be located from "across the street" to 2.5-miles from the subject. At hearing, the appellant testified that the comparables were zoned neighborhood commercial like the subject. The comparable parcels were described as ranging in size from 4,000 to 9,344 square feet of land area. Based on the assessment data, three of the properties had improvements. These three comparables had land assessments ranging from \$1,460 to \$3,230 or from \$0.17 to \$0.67 per square foot of land area. The subject has a land assessment of \$7,710 or \$1.00 per square foot of land area. Based on this evidence, the appellant requested a reduction in the subject's land assessment to \$3,120 or \$0.40 per square foot of land area.

On cross-examination, the board's representative inquired if the appellant had discussed the assessment of the subject property with the township assessor which he had not. In answer to the board's second question, the appellant testified that the board of review had reduced the subject assessment by \$200 at the local level.²

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$7,710 was disclosed. In support of the subject's assessment, the board of

² The Final Decision in this matter reveals an assessment before board of review action of \$8,220 and an assessment after board of review action of \$7,710; this reflects a reduction of \$510.

review presented a grid of four comparable properties said to be from "next door" to 1-mile from the subject. Only comparable #4, located next to the subject, had an improvement on the parcel. The comparable parcels ranged in size from 3,750 to 11,250 square feet of land area and had land assessments ranging from \$5,010 to \$16,890 or from \$1.22 to \$1.52 per square foot of land area. The board of review representative asserted that only one of the appellant's comparables was in the same neighborhood code assigned by the assessor as the subject. Based on this evidence and appellant's failure to establish clear and convincing evidence of assessment inequity, the board of review requested confirmation of the subject's land assessment.

On cross-examination, appellant established that board of review comparable #1 is an asphalt parking lot for a nursing home business. The board representative also acknowledged that comparables #2 and #3 are located on a major east-west thoroughfare in Peoria which is a heavily traveled road. The board of review was unable to indicate the use of either comparable #2 or #3.

In further response, the board of review's representative noted that intentionally all of the comparables presented in this appeal by the board of review were located in the same neighborhood code assigned by the assessor as the subject property.

In response to the Hearing Officer's question, the board of review asserted that the assessor does assess for asphalt paving, but the assessed value was unknown to the board representative.

In rebuttal, the appellant testified that board of review comparables #1, #2 and #3 were paved parking lots, unlike the subject vacant lot. Appellant further doubted that the board of review comparables were zoned neighborhood commercial like the subject, but had no evidence to support that contention.³ Appellant also noted that two of the board of review's comparables were located on War Memorial Drive, one of the busiest commercial streets in the community and thus, not very comparable to the subject which is located in a mixed neighborhood of residential and commercial properties. Appellant also noted that board of review comparable #4, which was said to be "next door" to the subject, was dissimilar in that it was improved with an apartment building.

In previously submitted written rebuttal, appellant presented a newly suggested comparable sale of a 12,000 square foot parcel which sold in May 2006 for \$13,500 or \$1.13 per square foot to further support the appellant's claim.

³ The Zoning data from the property record cards for the subject and each of the four comparables presented by the board of review uniformly state "commercial"; there is no indication on the subject's property record card of "neighborhood commercial" for the zoning.

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.

As an initial matter and pursuant to the Official Rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill. Admin. Code, Sec. 1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill. Admin. Code, Sec. 1910.66(c)). In light of these Rules, the Property Tax Appeal Board has not considered the newly presented sales comparable submitted by appellant in conjunction with his written rebuttal.

The appellant contends initially the assessment of the subject property is excessive and not reflective of its market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the appellant failed to prove the property was overvalued by a preponderance of the evidence.

As noted above, the sale comparable data presented in rebuttal cannot be considered. Thus, the only market value evidence presented in the record that could be considered was the subject's 1996 purchase price which was part of a two-parcel sale for \$78,500. The settlement statement did not allocate a specific sale price for the subject vacant parcel. More importantly, an 11 year-old sale price is not a valid indicator of the market value of the subject parcel as of January 1, 2007, the assessment date at issue. While the appellant's argument that the assessment of the parcel has nearly doubled since its purchase is a commonsense argument, the evidence fails to establish by a preponderance of the evidence that the subject was overvalued.

The appellant also contends unequal treatment in the subject's land assessment as a basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). 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 appellant has met this burden.

The parties submitted a total of eight equity comparables to support their respective positions before the Property Tax Appeal Board. Due to differences in size and/or location, the Board has given less weight to appellant's comparables #2, #3, and #4 along with board of review comparables #2 and #3. Thus, the Board

finds appellant's comparable #1 and board of review comparables #1 and #4 were most similar to the subject in location and size. While the board of review contended that paved parking lots like board of review comparable #1 would be assessed for paving, the attached property record card reveals no improvement assessment on the parcel. Due to their similarities to the subject, these three comparables received the most weight in the Board's analysis. These comparables had land assessments ranging from \$0.37 and \$1.52 per square foot of land area. The subject's land assessment of \$1.00 per square foot of land area is within the range established by the most similar comparables. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's land assessment is equitable and a reduction in the subject's assessment is not warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960). Although the comparables presented by the appellant disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that 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.

Ronald R. Guit

Chairman

Member

Mario M. Louie

Member

Member

William R. Lerbis

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: September 24, 2010

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.