



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

APPELLANT: Steve Garrelts/SGMV Mgmt  
DOCKET NO.: 07-04322.001-C-2  
PARCEL NO.: 09-14-300-005

The parties of record before the Property Tax Appeal Board are Steve Garrelts/SGMV Mgmt, the appellant, by attorney Curt P. Rehberg, of Curt P. Rehberg and Associates, P.C. in Crystal Lake, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$191,204**  
**IMPR: \$270,575**  
**TOTAL: \$461,779**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject parcel of 2.43-acres or 105,850.8 square feet of land area has been improved with a commercial building being used as a plumbing shop. The building includes a masonry constructed office/showroom facility and a steel framed warehouse. The property is located on Route 31 in McHenry, McHenry Township, McHenry County.

The appellant appeared through counsel before the Property Tax Appeal Board contending that the subject's land was inequitably assessed. No dispute was raised in the appeal with regard to the improvement assessment. Moreover, while counsel took an oath as a witness at the hearing, during the hearing counsel primarily reiterated the data set forth in the Commercial Appeal form and advocated for his client (Transcript pages 5-7).<sup>1</sup>

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<sup>1</sup> "An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. When an attorney is a witness for the client, except as to merely formal matters, the attorney should leave the hearing of the appeal to other counsel. Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client." (86 Ill. Admin. Code Sec. 1910.70(f)).

In support of the inequity argument, the appellant submitted information on three comparable parcels located from 3 to 4-miles from the subject parcel, each of which was located on Route 120, and described as parcels ranging in size from 28,314 to 74,181 square feet of land area. Counsel argued the comparables were consistent with the usage of the subject property being located along a well-traveled corridor known as Route 120; the other well-traveled corridor in McHenry was said to be Route 31. The comparables have land assessments ranging from \$13,370 to \$62,367 or from \$0.28 to \$0.84 per square foot of land area. The subject's land assessment is \$191,222 or \$1.81 per square foot of land area. Counsel further argued that comparable #3, utilized as a car dealership, was the most similar property and had the highest per-square-foot land assessment of the comparables presented by appellant. Based on this evidence, counsel argued that the appellant was requesting an land assessment reflective of the average of the per-square-foot land assessments of the three comparables; appellant thus requested a reduction in the subject's land assessment to \$61,393 or \$0.58 per square foot of land area.

On cross-examination, counsel acknowledged that his client purchased the subject property for \$1,300,000 in September 2005. (See PTAX 203 in board of review's evidence). In terms of comparables located along Route 31 like the subject, counsel indicated a nearby bowling alley had a 6-acre parcel and was used differently and other Route 31 properties to the south were intensive retail uses which were dissimilar to the subject.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$461,779 was disclosed. In support of the subject's land assessment, the board of review submitted a letter from Carol L. Perschke, McHenry Township Assessor, along with a chart entitled 2007 Land Values Implemented and a chart entitled 2007 Commercial Parcels in 09-14 Section.

At the hearing, Perschke testified that in 2007 Route 31 was revalued from Johnsburg Road south to the township border which included revaluation of the subject parcel. Perschke testified that the revaluation was performed because there was a lot of development in the section immediately south of the subject parcel including the sale of the subject parcel which produced a sales ratio of 19.5 indicating a need to revalue the area. Thus, Perschke changed just the commercial property in that area.

Perschke further testified that the appellant's comparables located along Route 120 were not comparable as of January 1, 2007 to Route 31 parcels because Route 120 had recently experienced a total widening project and there was little turnover of the land, little sales along that area so for the 2007 assessments, Route 31 was revalued and in 2008 Route 120 was revalued.

In her letter, Perschke noted the subject on Route 31 is in PIN range 09-14, near the geographic center of the township, whereas

the appellant's comparables were on Route 120 on the eastern side of the township. Perschke contended that the subject property was assessed in a uniform manner with other commercial parcels in the 09-14 PIN range; she further wrote, "The land assessments implemented were taken directly from market sales in the immediate area of the subject property." As shown in the Implemented Land Values chart, Perschke wrote that she deliberately created a category of 'Route 31 N - 09-14 PINS' with lower land values than the section immediately to the south known as the 09-23 PIN range as the 09-14 area was immediately north of the growth. Perschke contends the properties in section 09-14 like the subject were assessed in a uniform manner at an equalized land assessment per square foot of \$1.81 as displayed in the chart entitled 2007 Commercial Parcels in 09-14 Section. The chart identified seven properties by parcel number and said to be located on Route 31 North; five were commercial properties, one was industrial and one was denoted as commercial unimproved. The parcels ranged in size from 1.55 to 6.81-acres or from 67,518 to 296,643.6 square feet of land area and each had an equalized assessed value of \$1.81 per square foot of land area.

The board of review also submitted a copy of documents considered at the local board of review hearing. Among those documents was a two-page letter from Perschke with attachments advising the board of review that the sale of the subject property occurred as a privately arranged sales agreement involving both the subject and some condo units owned respectively by the buyer and seller; the subject was not available on the open market for public bidding. (The PTAX 203 form further reflects that the subject property was not advertised for sale.)

Based on this evidence, the board of review requested confirmation of the subject's land assessment.

On cross-examination, Perschke acknowledged that the only sale within 09-14 PIN range was the 2005 sale of the subject property. Because this was her only sale for the 09-14 PIN range, Perschke deliberately "brought in a lower price per square foot for the 09-14 versus the higher prices that were implemented for 09-23." (Transcript p. 13) Perschke explained that the Route 120 corridor was not revalued in 2007 because the area was recovering from a massive highway reconstruction project, the development was not along that corridor, and there were insufficient sales to support any revaluation at that time. The 2008 revaluation of the Route 120 corridor was due to sales in 2007 and early 2008 along with appraisals on properties received in 2008.

In answer to the Hearing Officer's question seeking a basis for revaluations of only portions of the jurisdiction, Perschke testified that because the Route 120 businesses had suffered huge economic impairments due to the road widening project, she believed it would have been foolish to reassess the area until it had a chance to recover; the Route 120 corridor had already been developed and was more established whereas the new development was branching out on Route 31 north making it critical for her to

'implement proper assessments for 2007' with the knowledge that she would revalue Route 120 in 2008. (Transcript pp. 15-16) While the highway widening project began at the end of 2005 and took more than a year to complete, Perschke believed that revaluation of the area at that time would result in submission of a lot of income approaches and the values might even go down. (Transcript p. 16)

On redirect examination, Perschke testified that she is not aware of any requirement that as township assessor she must reassess all commercial development within McHenry Township at the same time. Perschke further testified that she watches the sales ratios all over the township and observed the most glaring undervalued areas were from north Route 31; as a priority, she directed her attention to that issue.

After reviewing the record 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 a reduction in the subject's assessment is not warranted.

The appellant contends unequal treatment in the subject's improvement assessment as the 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). After an analysis of the assessment data, the Board finds the appellant has/has not met this burden.

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 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.]

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 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.

In this proceeding, the appellant presented three properties located from 3 to 4 miles from the subject along Route 120, but claimed to be comparable to the subject parcel, whereas the board of review presented data that seven properties located on Route 31 and in close proximity to the subject that had land assessments identical to the subject lot on a per-square-foot basis. Illinois courts have previously held that property selected for comparison must in fact be similar in kind and character and must be similarly situated to the property on appeal. DuPage Bank & Trust Co. v. Property Tax Appeal Board, 151 Ill. App. 3d 624 (1986). The Board finds that the comparables presented by both parties were located along state routes or main corridors through the community of McHenry; beyond that fact, no other specific similarities in the properties were elicited. The Board finds the missing piece of data not supplied by the appellant in this lack of uniformity contention concerned the fair cash value of the properties in question along Route 120. See, Kankakee County Board of Review, 131 Ill.2d at 21. As the Supreme Court wrote in Kankakee County Board of Review:

Riverwoods [taxpayer] failed to sustain their burden of proof in this case. There is no evidence in the record to suggest that the two subsidized projects are comparable to Riverwoods' property.

Id. at 22. There is no data to indicate whether similar properties along Route 120 would bring similar fair cash values as the subject property on Route 31. See Givens v. State of Illinois Property Tax Appeal Board, 84 Ill. App. 3d 218 (5<sup>th</sup> Dist. 1980). The assessor segregated for assessment purposes various portions of Route 31 to delineate between properties to the north including the subject and properties further to the south that had seen more growth and increased values. The Board finds the only fair cash value evidence in the record is the subject property's 2005 purchase price of \$1,300,000. The subject's total 2007 assessment of \$461,779 reflects an estimated market value of \$1,388,809 using the 2007 three-year median level of assessments for McHenry County of 33.25%, which reflects a value slightly higher than its two-year-old purchase price. The Board finds merely presenting the land assessments of three suggested comparable properties did not establish that the land

assessment of the subject property was inequitable without further evidence that the comparables would have similar cash values.

Therefore, the Board finds the subject's land assessment was not shown by clear and convincing evidence to have been inequitable; a reduction in the subject's land assessment is not warranted on this record.

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 Morris*

Member

*Shawn 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: April 23, 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.