FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Nicholas J. Lombardi
DOCKET NO.: 07-04497.001-R-3
PARCEL NO.: 06-28-307-010

The parties of record before the Property Tax Appeal Board are Nicholas J. Lombardi, the appellant, by attorney Whitney T. Carlisle of McCracken, Walsh & de LaVan, Chicago; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$465,750
IMPR.:	$0
TOTAL:	$465,750

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 4.4 acre (191,664 square foot) vacant parcel. The property is located in Oak Brook, York Township, DuPage County.

Prior to the scheduled hearing the parties agreed that the hearing was not necessary and that the Property Tax Appeal Board could make a decision based upon the evidence submitted.

The property in this appeal was the subject matter of appeals before the Property Tax Appeal Board for 2005 and 2006 under Docket No. 05-01739.001-R-2 and Docket No. 06-02026.001-R-2. In each appeal, the Property Tax Appeal Board reached a decision confirming the assessment of the subject property as established by the DuPage County Board of Review based upon equity and the weight of the evidence in the record as presented by the parties to the appeal.

On the Residential Appeal form the appellant indicated that the basis of the appeal was assessment equity. In support of this argument the appellant provided brief descriptions and assessment information on six comparables, three of which had an improvement

assessment. Five of the comparables are stated to be located in Hinsdale. The six comparables had parcels that ranged in size from 1.5 to 12.19 acres and had land assessments ranging from $50 to $327,680, with five having land assessments ranging $.62 to $.70 per square foot of land area. The appellant's counsel acknowledged that the comparables are located in a different township and neighboring town but argued the area is very comparable to the subject's location. The subject has a land assessment of $465,750 or $2.43 per square foot of land area.

The appellant's counsel also submitted a brief explaining that approximately 1 acre of the subject property is assessed as buildable land and approximately 3.4 acres of the subject property is assessed as un-buildable because of a flood plain designation by the local assessor. (Exhibit A.) The appellant asserted that the flood plain designation relates to a prior determination by the Illinois Department of Public Works and Buildings, by letter dated May 11, 1971, marked as Exhibit B, stating that it was been determined that portions of the lot are subject to flood risks and that any building developments on this lot should be raised above high water elevations. The appellant's counsel further asserted that the northwest corner of the subject property is actually under water, being adjacent to Ginger Creek. In support of this argument the appellant submitted Exhibit C, a plat map, and Exhibit D, a flood plain map. The appellant also submitted copies of photographs depicting the flooding of the subject parcel marked as Exhibit E.

The appellant argued that in 2007 the assessment of the subject parcel was split between a market value of approximately $11.88 per square foot of buildable land area for the approximately 1 acre and approximately $5.94 per square foot for the unbuildable area. In the brief the appellant's counsel argued the 3.4 acres of un-buildable land is assessed at too high a value given its unusable state. He argued that since the 3.4 acres is partially under water and the remaining portion is prone to extensive flooding or being marshy, it is of little functional utility or value. He further asserted the assessor's policy of pricing unbuildable land at ½ the value of buildable land has not been demonstrated to have any rational basis with respect to the true fair cash value for the subject land. Based on this the appellant contends the subject's assessment should more properly reflect only the current assessed value for the 1 acre buildable land.

Based on this evidence the appellant requested the subject's land assessment be reduced to $88,333.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $465,750 or $2.43 per square foot of land area was disclosed. The board of review submitted an Addendum to Board of Review Notes on Appeal and Exhibit #1, which included an assessment data sheet listing the appellant's and the assessor's comparable properties as well as a memorandum from Deputy Township Assessor

Ronald Pajda of the York Township Assessor's Office analyzing the properties.

In rebuttal, the deputy township assessor stated that only one of the appellant's comparables was located in York Township in the town of Westmont and is a storm water retention pond for an adjacent commercial property. He stated this parcel always has water in it and the value is tied to the commercial parcel. The deputy township assessor stated the remaining comparables submitted by the appellant are in another township.

The township assessor explained in the memorandum that the subject property has approximately 1 acre of buildable land assessed at $3.96 per square foot of land area and the York Township Assessor's Office has a policy of assessing the un-buildable land at one-half the value of the buildable land, which would equate to an assessment of $1.98 per square foot of land area.[1]

The deputy township assessor also stated the subject property has an indicated market value of $7.28 per square foot of land area. To demonstrate the subject property was not overvalued the deputy assessor provided information on three comparable sales. Comparable #1 consisted of two lots with a combined area of 91,476 square feet located next to the subject that sold together in July 2005 for a price of $1,475,000 or $16.12 per square foot of land area. Neither of these parcels was in a flood plain. Comparable #2 was noted to be located approximately ¼ to ½ mile west and south of the subject and had 110,076 square feet of land area with 27.4% of the land located in a flood plain. This parcel sold in June 2008 for a price of $1,375,000 or $12.49 per square foot of land area. The final comparable consisted of a parcel located two lots south of the subject property containing 54,885 square feet of land area with 25.6% of the lot in a flood plain. This property sold in February 2007 for a price of $1,190,000 or $21.68 per square foot of land area. The data provided by the township assessor disclosed each of these comparables had a land assessment of $3.96 per square foot of land area.

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

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 the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

[1] The memorandum from the deputy township assessor contains an error in that it states the value of the 3.401 acres of unbuildable flood plain land located on the subject property is assessed at $3.98 per square rather than $1.98 per square foot.

The appellant asserted that the basis of the appeal was assessment inequity. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments 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 a reduction is not warranted on this basis.

The Board finds the best comparables in the record were those submitted on behalf of the DuPage County Board of Review. The comparables were located in the same township and within at least ½ mile of the subject property. Two of these comparables also had portions of their sites in a flood plain. These comparables ranged in size from 43,560 to 110,900 square feet of land area and had land assessments ranging from $172,500 to $435,900 or $3.96 per square foot of land area. The subject has a land assessment of $465,750 or $2.43 per square foot of land area. The subject's land assessment is below the range established by the best comparables in the record.

The appellant asserted that the subject's value was excessive due to its propensity to flood and the marshy areas. The Board finds that the appellant submitted no market data demonstrating the subject was overvalued. Conversely the board of review provided sales information on the same four comparables used to demonstrate uniformity. The comparables were located in close proximity to the subject with two having 27.4% and 25.69% of their land area in flood plains. These properties sold from July 2005 to June 2008 for prices ranging from $1,190,000 to $1,475,000 or from $12.49 to $21.68 per square foot of land area. The two comparables with land in the flood plain had unit prices of $12.49 and $21.68 per square foot of land area. The subject's assessment of $465,750 reflects a market value of $1,400,331 or $7.31 per square foot of land area using the 2007 three year median level of assessments of 33.26%. The subject's assessment reflects a value significantly below that of the best sales in the record. The Board finds this data demonstrates the subject property's assessment is not excessive in relation to its market value.

In conclusion, based on this record the Board finds a reduction in the subject's assessment 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.

Chairman

Member

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 3, 2010

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.