



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

APPELLANT: Henry James Meinke
DOCKET NO.: 07-28436.001-C-1
PARCEL NO.: 10-32-203-001-0000

The parties of record before the Property Tax Appeal Board are Henry James Meinke, the appellant, by attorney Terrence Kennedy Jr., of Law Offices of Terrence Kennedy Jr. in Chicago; and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 232,732
IMPR.: \$ 66,921
TOTAL: \$ 299,653

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story, owner-occupied, 4,240 square foot greenhouse plus garden center (with miscellaneous improvements and buildings) that is situated on a 64,469 square foot (1.48 acres) site. The property is located in Niles Township, Cook County.

The appellant, via counsel, indicated they were not contesting the improvement assessment, however, the inequitable land assessment was the basis of the appeal.

In support of this argument, the appellant submitted a land uniformity analysis report co-authored by three state licensed certified general real estate appraisers. None of the appraisers inspected the property. They valued the subject land at \$275,000 as of January 1, 2007. The appraisers were not present at the hearing to provide direct testimony or be cross-examined regarding the valuation methodology and final value conclusion.

The appraisers' methodology consisted of examining eight commercial or industrial properties located in the subject's market and comparing the county assessor's land assessment of those properties to that of the subject. Three of the parcels used in the analysis were adjacent to each other and shared the same improvement.

At the hearing, the appellant's counsel summarized the land uniformity report. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review-Notes on Appeal" wherein its final assessment of the subject property totaling \$299,653 was disclosed. The subject's assessment reflects a market value of \$788,561 using the level of assessment of 38% for Class 5a property as contained in the Cook County Real Property Assessment Classification Ordinance. The board submitted raw sales information on a total of six comparable vacant parcels of land, all located within a two and one-half mile radius of the subject. They ranged in size from 0.72 acres to 1.86 acres of land and sold between April 2003 and July 2007 for prices ranging from \$990,000 to \$4,100,000. No adjustments were made for location, size, or date of sale. In addition, the board of review submitted a map showing the location of the sale comparables in relation to the subject property. As a result of its analysis, the board requested confirmation of the subject's assessment.

The board of review rested on its evidence previously submitted at the hearing.

On cross examination, the appellant's attorney indicated that the board did not address the appellant's uniformity argument and that the board's sales were too distant in location and date of sale to be considered.

After hearing the testimony 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 change in the subject's assessment.

The appellant argued unequal treatment in the assessment process for the land portion of the assessment only. The Illinois Supreme Court has held that 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. Having considered the evidence presented, the Board concludes that the appellant has not met this burden and that a reduction is not warranted.

The appellant presented assessment data on a total of eight land equity comparables using the assessor's assessment, then extrapolated its market value based on its respective level of assessment. This data was presented in the form of a consulting report prepared by three licensed appraisers. The appraisers neither testified at the hearing nor inspected the property. The Property Tax Appeal Board finds that based on the valuation evidence contained in this record, the subject's land value is one of the main value considerations in this appeal and that the appellant did not request a change in the subject's improvement assessment. The Board finds the subject parcel consists of real property including both land and improvements thereon. In Showplace Theatre Company v. Property Tax Appeal Board, 145 Ill.App 3d. 774 (2nd Dist. 1986), the court held an appeal to the Property Tax Appeal Board includes both land and improvements and together constitute a single assessment. In accordance with Showplace, the Property Board Tax Appeal Board analyzed the subject's total assessment in making the determination on whether its assessment is reflective of fair cash value. The Board finds the conclusion of value contained in the consulting report submitted by the appellant is not credible and was given no weight for several reasons.

The appellant's appraisers were not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined.

Additionally, the Board finds that the valuation method used by the appellant in this case is not appropriate. The Illinois Constitution requires that there be consistency in the basis of achieving uniformity of assessments. Ill. Const. of 1970, art. IX, § 4(a); Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 235 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1, 20 (1989)). Since consistency in the valuation method is constitutionally required, the Board cannot apply the appellant's atypical valuation method in this appeal, and a different valuation method in all other instances. To do so would abridge the constitutional principle of uniformity of assessment.

Accordingly, the appellant has not met the burden of proving inequity by clear and convincing evidence. Furthermore, the Board gives little weight to the board of review's evidence as the data is merely raw sales data that has not been adjusted for market conditions including time, location, age, size, land to building ratio, parking, zoning and other related factors and fails to address the appellant's equity argument.

After considering the evidence submitted, the Board finds 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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 19, 2013

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.