



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

APPELLANT: J. Harrison
DOCKET NO.: 07-29109.001-C-1 through 07-29109.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are J. Harrison, the appellant(s), by attorney Edward Larkin, of Larkin & Larkin in Park Ridge; 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-29109.001-C-1	03-13-200-024-0000	1,558	107	\$1,665
07-29109.002-C-1	03-13-200-025-0000	84,915	1,319	\$86,234

Subject only to the State multiplier as applicable.

ANALYSIS

The subject is improved with a 21 year old, one-story, commercial building with 1,080 square feet of building area. At the time of this appeal, the subject was designed for use as a go-kart track. The parties dispute the subject's land size. The appellant, via counsel, argued that the subject's assessment should be reduced for two reasons. First, the appellant argues that several public takings of portions of the subject have devalued the subject; and second, that there was unfair treatment in the assessment process of the subject's land assessment.

In support of the takings argument, the appellant submitted no evidence. The only support for this argument is a couple of conclusory statements made by counsel in the brief. These conclusory statements assert that the Village of Wheeling and the State of Illinois both used their eminent domain powers to take separate portions of the subject for road widening purposes, and that these multiple takings resulted in a decrease in the subject's ability to generate income. The appellant does not state what portion of the subject was taken, how much of the subject was taken, when these alleged takings took place, or any other details regarding the takings.

In support of the land equity argument, the appellant submitted descriptive and assessment information for four properties

suggested as comparable to the subject. Three of these comparables are improved with an industrial building, while the fourth is improved with a mixed-use building. The comparables have land unit assessments ranging from \$0.25 to \$3.98 after correcting the appellant arithmetic errors.

The appellant did not assert what the subject's land size is in the brief. However, the appellant included printouts from the Cook County Assessor's website, which state that the subject's total land size was 82,074 square feet. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal" wherein the subject's final assessment of \$87,899 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for five parcels of vacant land located within three miles of the subject. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the assessor's office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further stated that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The suggested comparables are all vacant parcels of land that range in land size from 63,162 to 130,680 square feet of land area. The properties sold from March 2003 to March 2005 in an unadjusted range from \$296,913 to \$1,700,000, or from \$4.70 to \$15.69 per square foot of land area. No assessment data was included for these properties for tax year 2007.

In addressing the public takings argument made by the appellant, the board of review stated that "[t]he Appellant has indicated that the subject site has been reduced to approximately 65,343 square feet . . . " and that the entire reduction was taken from the Property Index Number ("PIN") ending in -024. Furthermore, the board of review stated that the Cook County Assessor compensated the appellant for the takings by reducing the land unit price of PIN -024 from \$4.50 to \$0.25 per square foot of land area. The board of review also stated that, if the appellant believes that the land size is incorrect, an application for division must be filed with the Assessor's office. The board of review also submitted a document that was filed with the Cook County Recorder of Deeds, and was allegedly filed on PIN -024 in December 2003. However, this document had no pertinent information, and appears to simply be a cover sheet. The board of review asserted that this was the only document filed on the subject regarding the takings. The board of review also asserted that there have been no divisions of the subject since 2002. Finally, the board of review stated that it used a

land size of 65,343 for the subject in searching for comparables. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant stated that the government entity doing a taking has the obligation to properly file, with the Recorder of Deeds, all the maps and documents necessary to effectuate the taking. According to the appellant, that did not happen in this case, and to render a decision in favor of the board of review in this case would effectively absolve any government entity of ever having to file the proper documentation. The appellant also asserts that the Assessor has a legal obligation to assess the subject's land, and that the appellant should not be obligated to file for a division to get the correct land size attributed to the subject.

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

The appellant argued that the takings of the subject had a negative impact on the subject's ability to generate income, decreasing its market value. When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code. § 1910.65(c). Having considered the evidence presented, the Board finds that a reduction is not warranted.

Initially, the Board finds that a taking or takings of the subject did take place at some point, although it is unclear as to when the taking or takings took place. The Board finds that the takings did take place based on the board of review's admission that PIN -024 received a reduction in its land unit price based on the takings. However, the Board is not persuaded that the taking or takings actually affected the subject's ability to generate income, thereby decreasing its market value. There was no evidence in the record to indicate what impact the taking or takings had on the subject, other than its land size decreased. In fact, the evidence in the record could allow for a contrary result, in that, the takings actually *increased* the subject's ability to generate income. For example, if the taking or takings were done to widen the road adjacent to the subject, it logically follows that the road was likely being widened to accommodate an increase in vehicular traffic traversing on the

adjacent road. An increase in vehicular traffic could, presumably, increase consumer traffic to the subject, thereby increasing its ability to generate income. Obviously, it is also possible that the taking or takings decreased the subject's ability to generate revenue, as suggested by the appellant, by taking so much of the subject's land that it could no longer be reasonably used as a go-kart track. If that was so, the subject would be unable to generate an substantial revenue without costly modifications to the subject. While the appellant asserts that is the case, there was no evidence submitted to support the claim. With no evidence to support the claim, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued based on the taking or takings of the subject.

The appellant also contends unequal treatment in the subject's land assessment as the basis of this 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. Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989)); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing DuPage Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 645-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

While it is typically necessary to determine the subject's land size prior to ruling on whether the land assessment is equitable, the Board does not do so in this case. First, there is inconclusive, varying evidence submitted by both parties. The appellant did not submit any evidence as to what the subject's land size was, except the printouts from the Assessor's website. The board of review, then, argues against the land square footage argument using figures that the appellant did not assert in the appellant's petition. Next, the board of review appears to indicate that the subject's land size is incorrect, because it uses the decreased land size as a benchmark when it searched for comparable properties. Therefore, there is no evidence in the record to suggest what the subject's land size is, and which the Board finds persuasive.

In any case, the Board does not find that determining the subject's land size is necessary to the adjudication of this appeal because the suggested comparables submitted by both parties are not similar to the subject. The appellant submitted

industrial and residential mixed-use properties as suggested comparables, but none of the comparables were commercial properties such as the subject. The board of review's comparables did not include any assessment data for tax year 2007. Therefore, the Board finds that the subject's land assessment is equitable, and a reduction in the subject's land 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.

Donald R. Cuit

Chairman

Frank J. Huff

Member

Member

Mark Morris

Member

JR

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: May 24, 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.