



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

APPELLANT: Cayco Construction, Inc.  
DOCKET NO.: 08-01687.001-R-2 through 08-01687.009-R-2  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Cayco Construction, Inc., the appellant, by attorney Donald T. Rubin and John K. Norris of Rubin & Norris, LLC, Chicago; and the Kane County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Kane County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
08-01687.001-R-2	04-09-426-001	55,170	0	\$55,170
08-01687.002-R-2	04-09-426-002	53,356	0	\$53,356
08-01687.003-R-2	04-09-426-003	46,822	0	\$46,822
08-01687.004-R-2	04-09-426-004	45,370	0	\$45,370
08-01687.005-R-2	04-09-426-005	38,220	0	\$38,220
08-01687.006-R-2	04-09-426-006	38,111	0	\$38,111
08-01687.007-R-2	04-09-426-007	41,015	0	\$41,015
08-01687.008-R-2	04-09-426-008	51,178	0	\$51,178
08-01687.009-R-2	04-09-426-009	40,724	0	\$40,724

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a nine vacant residential lots that range in size from 1.02 to 1.52 acres. The property is located in the Rolling Oaks subdivision, Burlington, Burlington Township, Kane County.

Appearing before the Property Tax Appeal Board on behalf of the appellant was attorney John K. Norris who argued overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Scott R. Kling and Edward V. Kling of Real Valuation Group, LLC, St. Charles, Illinois, with an effective date of January 1, 2008. The appraisal contained an estimate of value for the subject lots if

sold individually of totaling \$984,500. The appraisal also contained an estimate of value for the subject lots if sold to an individual purchaser of \$640,000.

Scott Kling was called as the appellant's witness. Kling is a real estate appraiser and has been employed by Real Valuation Group for approximately six years. The witness has been an appraiser for approximately 18 years and has the Certified General Appraiser license with the State of Illinois.

Kling testified he had prepared an appraisal of the subject property, which was marked as Appellant's Exhibit #1, and made a physical inspection of the property. The appraisal indicated the appraiser observed the subject property on December 4, 2008. (Appellant's Exhibit #1, page 3.) The appraisal indicated the property rights appraised are the fee simple estate. (Appellant's Exhibit #1, page 2.) The report also indicated the highest and best use of the subject property as vacant is for residential development with nine single family homes. (Appellant's Exhibit #1, page 16.)

In estimating the market value of the subject property the appraiser developed the sales comparison approach to value using 8 comparable sales. Kling testified the sales data were obtained using the Northern Illinois MLS service and the sales were verified with the Kane County Recorder's Office. The witness testified there had been no sales in the Rolling Oaks subdivision; however, lot 1 had an asking price of \$279,000 and had been listed on the market for 528 days.

The eight comparables used by the appraiser were located in the Illinois communities of Campton Hills, Maple Park, Elburn, Elgin, Hampshire and St. Charles. The comparables were composed of vacant lots that ranged in size from 32,234 to 66,275 square feet of land area. The sales occurred from March 2005 to August 2007 for prices ranging from \$95,000 to \$116,000 or from \$1.67 to \$2.95 per square foot of land area. The appraiser testified that adjustments to the comparables were made for location, exposure, lot size, physical attribute and date of sale. A review of the sales data on pages 21 through 28 of Appellant's Exhibit #1 indicated that the date of sale for each property was considered equal to the assessment date at issue. The witness testified all the comparables were located outside of Burlington Township. He further stated the subject lot sizes were obtained from a plat of survey, a copy of which was contained between pages 11 and 12 of Appellant's Exhibit #1. Based on these sales the appraiser estimated each of the lots had a unit value of \$2.00 per square foot of land area. The appraiser estimated the subject lots had the following market values:

Lot No.	Parcel No. (PIN)	Land Area (sq ft)	Market Value
#1	04-09-226-004	54,257	\$108,500
#2	04-09-226-003	56,172	\$112,000
#3	04-09-426-002	64,167	\$128,000

Lot No.	Parcel No. (PIN)	Land Area (sq ft)	Market Value
#4	04-09-426-001	66,182	\$132,000
#5	04-09-426-005	50,788	\$101,500
#6	04-09-426-006	45,768	\$91,500
#7	04-09-426-007	49,428	\$99,000
#8	04-09-426-008	61,436	\$123,000
#9	04-09-426-009	44,617	\$89,000

The appraiser indicated in the report the average lot value was \$109,383.

Kling further testified that he had another opinion of value in the appraisal based upon the discounted value of the subject property to a single buyer. This was calculated by using the total retail value for each of the nine lots and estimating an absorption period as to how long it would take to sell each lot. The appraisal indicated the steps included estimating the rate at which the lots would sell, estimating the sales costs, estimating an appropriate discount rate and estimating development expenses.

In the analysis the appraiser estimated the subject property could be sold to custom home builders and individuals at an absorption rate of 1 unit per quarter or 4 units per year. As a result the estimated marketing period for the lots was 9 quarters or 2.25 years. The report indicated that the sales expenses for marketing costs, brokerage commissions and such would be 3% of gross sales revenue. Administrative expenses for such items as closing costs, legal costs, office costs, taxes and insurance would be 1% of gross sales. Holding costs were estimated for the annual real estate taxes for the unsold lots. The developer's profit was estimated to be 12% of gross sales revenue. The appraiser also estimated a discount rate of 8.5%. The average price for each lot was \$109,383. Using a discounted cash flow analysis the appraiser estimated the subject parcels had a discounted value to a single buyer of \$640,000.

Under cross-examination the appraiser agreed that of his comparables, sale #3 sold most proximate in time to the assessment date at issue in August 2007 for a price of \$2.95 per square foot of land area.

The appraiser acknowledged that on page 20 of his report it states, "All sales considered were adjusted upward to the valuation date based on any changes in market conditions between the sale date and the valuation date." The appraiser testified this was an incorrect statement within the report. He testified this was boilerplate in all the reports and that no adjustment was made for time. The appraiser also agreed the statement on page 5 of the appraisal was in error with reference to a detailed interior observation of the subject property, as there are no improvements, explaining this is boilerplate language. The appraiser acknowledged that the Village of Burlington does not have a sewer plant but believed each lot could support a septic system. The witness also indicated that the first paragraph of

page 18 of his report referencing the U.S. office market should not be included in the report.

The appraiser stated he made qualitative adjustments to the sales but nowhere in the report has he indicated a unit price for each comparable after the adjustments. The appraiser stated his comment within the report on page 21 regarding sale #1 that the net overall adjustments to this sale are slightly positive was incorrect; it should be a slightly negative adjustment. The appraiser stated his comment within the report on page 22 regarding sale #2 that the net overall adjustments to this sale are positive was incorrect. The appraiser also stated his comment within the report on page 28 regarding sale #8 that the net overall adjustments to this sale are positive was incorrect, the adjustment should be negative.

The board of review of review submitted its "Board of Review Notes on Appeal" wherein its final assessments of the subject parcels were disclosed. The assessments and the indicated market values, rounded, when applying the 2008 average three year median level of assessments for Kane County of 33.27% for each of the parcels under appeal are as follows:

Lot No.	Parcel No. (PIN)	Land Area (sq ft)	Assessed Value	Market Value
#1	04-09-226-004	54,257	\$58,328	\$175,320
#2	04-09-226-003	56,172	\$58,328	\$175,320
#3	04-09-426-002	64,167	\$58,328	\$175,320
#4	04-09-426-001	66,182	\$58,328	\$175,320
#5	04-09-426-005	50,788	\$58,328	\$175,320
#6	04-09-426-006	45,768	\$58,328	\$175,320
#7	04-09-426-007	49,428	\$58,328	\$175,320
#8	04-09-426-008	61,436	\$58,328	\$175,320
#9	04-09-426-009	44,617	\$58,328	\$175,320

The board of review had indicated on its "Board of Review Notes on Appeal" that it would stipulate to revised lower assessments for each of the parcels under appeal. Prior to the hearing the appellant was notified and rejected the proposed revised assessments. At the hearing, Kevin Schulenburg, Chairman of the Kane County Board of Review, indicated the proposed revised assessments were still "on the table." The proposed revised assessments and corresponding market values, rounded, are as follows:

Lot No.	Parcel No. (PIN)	Assessed Value	Market Value <sup>1</sup>	Market Value Per Sq. Ft.
#1	04-09-226-004	\$45,370	\$136,370	\$2.51
#2	04-09-226-003	\$46,822	\$140,730	\$2.51
#3	04-09-426-002	\$53,356	\$160,370	\$2.50
#4	04-09-426-001	\$55,170	\$165,830	\$2.51
#5	04-09-426-005	\$38,220	\$114,880	\$2.26

<sup>1</sup> The estimated market value was calculated using the 2008 three year average median level of assessments for Kane County of 33.27%.

Lot No.	Parcel No. (PIN)	Assessed Value	Market Value <sup>2</sup>	Market Value Per Sq. Ft.
#6	04-09-426-006	\$38,111	\$114,550	\$2.50
#7	04-09-426-007	\$41,015	\$123,280	\$2.49
#8	04-09-426-008	\$51,178	\$153,830	\$2.50
#9	04-09-426-009	\$40,724	\$122,400	\$2.74

At the hearing Debbie McKermitt, Burlington Township Assessor, was called as a witness on behalf of the board of review. She has been the township assessor since 2006 and has the Certified Illinois Assessing Official (CIAO) designation.

The township assessor indicated there were no sales of similar wooded lots like the subject parcels in the township so she looked at other townships to locate similar wooded lots. She used lots located in Plato Township, Elgin Township and Hampshire Township. The witness had listed the comparable sales she located on a grid which identified the PIN, acreage, date of sale, amount of sale square feet, price per square foot, a document number, described whether the lot backed up to wooded lots and whether the lots were in School District 30, the subject's school district. There were seven lots located in Plato Township that ranged in size from 14,375 to 23,958 square feet that sold from July 2006 to September 2007 for prices ranging from \$142,500 to \$185,250 or from \$6.54 to \$10.36 per square foot of land area. There was one lot located in Elgin Township that had 41,818 square feet of land area that sold in April 2005 and again in March 2007 for prices of \$175,000 and \$222,500 or for \$4.18 and \$5.32 per square foot of land area, respectively. There was also one sale located in Hampshire Township that had 58,806 square feet of land area and sold in August 2007 for a price of \$200,000 or \$3.40 per square foot of land area.

Under cross-examination, the witness testified she had not talked to the buyers or sellers to confirm the sales prices and the data she used was from the real estate transfer declarations. She also indicated she viewed the comparables using aerial photographs and did not actually drive by to view the comparables. The witness further testified, all things being equal, a larger lot would sell for less per square foot than a smaller lot.

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 the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify

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<sup>2</sup> The estimated market value was calculated using the 2008 three year average median level of assessments for Kane County of 33.27%.

property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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 (3<sup>rd</sup> Dist. 2002). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). After an analysis of the sales data in the record the Board finds a reduction is justified.

Initially, the Board finds the appellant's appraiser's final opinion of value was not credible and understated the value of the subject parcels. The Board finds the appraisal itself had statements or errors that contradicted the testimony of the appraiser, which undermined the credibility of the witness and his ultimate opinion of market value. Additionally, the appraisal contained three land sales that occurred in 2005, which are somewhat dated given the assessment date at issue and are given little weight by the Board. The Board also finds that the appraiser's testimony regarding no adjustment to the sales for time is questionable and not supported by any market data. The record contains information provided by the township assessor on a parcel located in Elgin Township that had 41,818 square feet of land area that sold in April 2005 and again in March 2007 for prices of \$175,000 and \$222,500 or for \$4.18 and \$5.32 per square foot of land area, respectively. This sale indicates there was some appreciation and a positive adjustment for time appears to be warranted to the sales in the appraisal. Additionally, the Board finds the discounted cash flow analysis developed to demonstrate the value of the property to a single purchaser was too speculative to be given any weight. For these reasons the Board finds the conclusion of market value in the appraisal is not representative of the fair cash value of the subject parcels.

The Board finds the appraisal contains five sales ranging in size from 32,234 to 66,275 square feet of land area that occurred from April 2006 to August 2007 for prices ranging from \$95,000 to \$111,000 or from \$1.67 to \$2.95 per square foot of land area. Four of the five sales had a narrower range from \$2.16 to \$2.95 per square foot of land area. Furthermore, the sale that occurred most proximate in time to the assessment date at issue had a unit price of \$2.95 per square foot of land area. The board of review provided two sales that were relatively similar to the subject parcels in size with 41,818 and 58,806 square feet of land area. These lots sold in March 2007 and August 2007 for

prices of \$222,500 and \$200,000 or for \$5.32 and \$3.40 per square foot of land area, respectively. After considering these sales and the testimony of the witnesses, the Board finds the proposed assessments for the subject parcels made by the board of review, which reflect market values ranging from approximately \$2.26 to \$2.74 per square foot of land area, are appropriate and a reduction is accordingly 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.



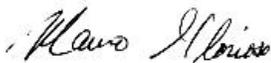
Chairman



Member



Member



Member



Acting 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 23, 2011



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.