



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

APPELLANT: Tom Mooncotch  
DOCKET NO.: 08-02343.001-R-1  
PARCEL NO.: 09-18-300-013

The parties of record before the Property Tax Appeal Board are Tom Mooncotch, the appellant, by attorney James P. Regan, of Fisk Kart Katz and Regan, Ltd. in Chicago, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$213,312  
**IMPR:** \$0  
**TOTAL:** \$213,312

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is a vacant 5.3-acre parcel located on Burr Road Lane in unincorporated St. Charles, St. Charles Township, Kane County.

The appellant appeared before the Property Tax Appeal Board by attorney Antonio Senagore of Fisk Kart Katz and Regan, Ltd.<sup>1</sup> The appellant's brief referenced unequal treatment in the assessment process as the basis of the appeal.

As a preliminary matter, both parties in presenting evidence converted the assessments of suggested comparable properties to estimates of market value by multiplying the assessment by three and then rounding up to the next \$50 or \$100 increment. Therefore, the discussion of the evidence presented in this

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<sup>1</sup> When witnesses were sworn, counsel took an oath. Pursuant to Section 1910.70(f) of the Official Rules of the Property Tax Appeal Board, "[a]n attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. . . . Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client."

matter will refer solely to these converted estimates of market value based upon the individual assessments.

In support of the inequity argument, the appellant presented a two-page letter prepared by counsel. In the letter counsel argued that the subject vacant land was purchased "at a high price only because the land is located next to the home of the owner." Counsel further argued the subject assessment was excessive as "1 acre of the property has a unit value of \$350,000 or a market value of \$437,500, and all remaining land has a unit value of \$50,000."

The letter then set forth a listing by parcel number, street address (if any), "unit price" ranging from \$175,000 to \$250,000, "acreage" of 1.25-acres, and "land market value" ranging from \$218,750 to \$312,500 for fourteen properties. No data on proximity to the subject, actual lot size or assessment was presented by the appellant in this data. Based on the foregoing market value data, counsel in the letter argued the subject should have a unit value of \$200,000 for the first 1.25-acres followed by a unit value of \$50,000 for the remaining 4.05-acres for a total market value of \$452,500. On the appeal petition, the appellant requested a land assessment reduction to \$150,818 which would reflect a market value of approximately \$452,454.

At hearing, counsel for appellant argued from the more detailed data for these fourteen comparables as presented in the board of review's responsive evidence. In that submission, the board of review indicated the parcels were all vacant land located within Burr Hill Club (subdivision), unincorporated St. Charles, or Burr Road Estates (subdivision). According to the board of review's submission, the parcels range in size from 1.25 to 6.75-acres. These comparables have market values ranging from \$218,750 to \$525,000 or from \$77,778 to \$175,000 per acre. The subject parcel of 5.3-acres has an estimated market value based on its assessment of \$640,000 or \$120,755 per acre.

Based on the board of review's spreadsheet, counsel argued that the assessing officials value smaller parcels of land at a higher per-acre rate than larger parcels of land, but that methodology was not followed in assessing the subject property. In particular, comparables #1 through #7 range in size from 1.25 to 2.1-acres and have slightly higher per-acre market values ranging from \$124,405 to \$175,000 per acre as compared to comparables #8 through #11 which are located in unincorporated St. Charles like the subject. Comparables #8 through #11 range in size from 4.02 to 6.75-acres and have lower per-acre market values ranging from \$77,778 to \$96,642 per acre. In particular, counsel noted that comparable #11 was identical in size to the subject and was also located in incorporated St. Charles, but yet this parcel had an estimated market value of \$452,500 or \$85,377 per acre whereas the subject has an estimated market value of \$640,000 or \$120,755 per acre.

Counsel cited to the Illinois Supreme Court decision of Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228, 692 N.E.2d 260, 229 Ill. Dec. 487 (1998) for the proposition that:

The Illinois property tax scheme is grounded in article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes "shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." (*Citation omitted.*) Uniformity requires equality in the burden of taxation. (*Citation omitted.*) This, in turn, requires equality of taxation in proportion to the value of the property taxed. (*Citation omitted.*) Thus, taxing officials may not value the same kinds of properties within the same taxing boundary at different proportions of their true value. (*Citation omitted.*)

Walsh, 181 Ill.2d at 234. Based on the foregoing evidence and precedent, counsel for the appellant requested a reduction in the subject's assessment to \$150,817 or to reflect a market value of \$85,377 per acre, identical to comparable #11.

The board of review presented its "Board of Review Notes on Appeal" wherein its final assessment of \$213,312 for the subject property was disclosed. The board of review submitted a memorandum from the St. Charles Township Assessor's Office along with a grid analysis of seven suggested comparables in addition to the reiteration of the appellant's fourteen comparables previously referenced in this decision. As to the appellant's comparables, the township assessor noted ten of the appellant's fourteen properties are located in platted subdivisions and are significantly smaller than the subject. Thus, the assessor contends these comparables are dissimilar in both size and location.

In the memorandum, the township assessor reported that "generally speaking" larger tracts in unincorporated St. Charles Township are valued on a per-acre basis with the first 1.25-acres "carrying the larger burden of value (homesite, reflective of marginal utility) with any additional acreage valued at \$50,000 per acre." The memorandum further stated "[b]ase site values vary depending on location and are derived from the market."

The seven comparables presented by the board of review are located in unincorporated St. Charles, Wayne - Rooster Run, or Wayne - Normandy Glen. The parcels range in size from 3.32 to 7.8-acres. The parcels have market values ranging from \$145,819 to \$254,975 or from \$87,500 to \$199,800 per acre.

The memorandum also reported that the first 1.25-acres of the subject and three of the comparables were valued at \$350,000 per acre with additional acreage at \$50,000 per acre. The subject parcel was described as being located with three other properties (comparables #1, #2 and #7) at the end of a private lane. At hearing township assessor Diana Hemmingser testified that

comparable #7 has a lower value due to an easement for access. In the memorandum, the township assessor reported that comparable #3, located adjacent to the subject, has a lower value of \$200,000 for the first 1.25-acre due to "its hindered ingress and egress; an easement agreement has been given for access to this property." In addition, the subject parcel was reportedly purchased in March 2008 for \$750,000 or \$141,509 per acre. The subject's assessment reflects a market value of \$640,000 or \$120,755 per acre, which is less than its purchase recent price.

The board of review further reported in its documentation that five of its comparables and the subject had recent sales which further support the subject's assessment. The sales occurred between June 2005 and June 2008 for prices ranging from \$116,044 to \$274,301. At hearing, township assessor Dave Medlin testified that the base value is the key issue. "In determining the value of \$350,000 per acre for the first 1.25-acres, the adjoining land sale was utilized for doing that methodology."

Based on its analysis of the properties, the board of review requested confirmation of the subject's assessment.

Based on questions from the Hearing Officer, the township assessor Hemmingser acknowledged that board of review comparable #6 was located along a river and thus was valued differently than the subject and the other comparables.

In rebuttal, counsel for the appellant contended several of the board of review comparables were not similar to the subject in size.

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 this appeal.

The appellant contends unequal treatment in the subject's 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). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not met this burden.

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, 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.

The parties submitted a total of twenty-one equity comparables to support their respective positions before the Property Tax Appeal Board. The Board has given less weight to appellant's comparables #1 through #7 due to their location in subdivisions and their smaller lot sizes when compared to the subject. The Board has also given less weight to appellant's comparables #12 through #14 due to their smaller lot sizes. As to the board of review comparables, the Board has given less weight to comparable #6 due to its location on a river. The Board finds the remaining ten comparables, #8 through #11 submitted by the appellant and all but #6 submitted by the board of review, were most similar to the subject in location and size. These comparables based on their assessments had estimated market values ranging from \$129,487 to \$254,975 or from \$77,778 to \$199,800 per acre of land. While the appellant pointed to comparable #11 as being identical to the subject in lot size and being located in unincorporated St. Charles, one comparable alone does not establish a clear and convincing pattern of assessment inequity within the jurisdiction. The subject's assessment reflects a market value of \$640,000 or \$120,755 per acre which is within the range of these most similar comparables and at the lower end of the range.

In addition, the board of review presented four sales of similar parcels (#1, #3, #4 and #5) that sold between June 2005 and June 2008 for prices ranging from \$116,044 to \$274,301 per acre. The

subject's market value of \$120,755 falls at the lower end of the range of recent sale prices and is most supported by an adjacent property, board of review comparable #1 that sold in August 2006 for \$116,044 per acre. Finally, the subject sold in March 2008 for \$141,509 per acre; given the subject's recent sale price, the Board finds that the subject's 2008 assessment is not excessive in relation to its market value and is uniform with other properties of similar market value. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's assessment is equitable and 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.

*Ronald R. Cuit*

Chairman

*Frank J. Huff*

Member

Member

*Mario M. Louie*

*Shawn R. Lerbis*

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: September 23, 2011

*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.