



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

APPELLANT: Emmett Malloy
DOCKET NO.: 08-02366.001-C-1
PARCEL NO.: 09-26-276-035

The parties of record before the Property Tax Appeal Board are Emmett Malloy, the appellant, by attorney Margaret E. Graham, of McCracken, Walsh & de LaVan 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: \$62,827
IMPR.: \$0
TOTAL: \$62,827

Subject only to the State multiplier as applicable.

ANALYSIS

The subject 14,500 square foot parcel is a vacant lot which is said to be unbuildable. The property is located in St. Charles, St. Charles Township, Kane County.

The appellant through legal counsel indicated on the Commercial Appeal form that the basis of this appeal was assessment equity. No data on the assessments of any comparable properties was presented. With that appeal form the only data presented was an October 19, 2009 letter from the Building and Code Enforcement Division Manager in St. Charles. The letter cited to Ordinance No. 1981-Z-8 (copy attached) and Exhibit "D" (no copy provided) and concluded that "it appears that Lot 6 [the subject property] does not meet the requirement for development." From this data, counsel for appellant argued that the "restrictions have a negative impact on the subject, will make it difficult to market and sell, and difficult to develop."

In an earlier filing through legal counsel, appellant also contended that there have been no improvements made to the property since the 2007 assessment. Therefore the instant 2008

assessment increase reported to be 160%, or an assessment of \$62,827, was unjustified and grossly excessive. The only other substantive submission was a two-page document entitled "Real Estate Market Analysis" that was undated and unsigned. The document discussed findings of the S&P/Case-Shiller Home Price Index for the Chicago Metropolitan Area. Nothing presented was specific to the subject vacant lot in Kane County. By the terms of the document, it provided generalized statements regarding the value of "houses selling in 2005 as compared to those selling in 2008."

Based on the foregoing, appellant requested a reduction in the subject's assessment to its 2007 assessment of \$24,164.

The appellant also provided a copy of the Kane County Board of Review Final Decision dated March 11, 2009 establishing a total assessment for 2008 of \$62,827. The document indicates the assessment prior to board of review action was \$72,493 and the "Reason For Change: Unbuildable lot."

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property. Thus, the Kane County Board of Review was found to be in default on April 8, 2011, pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. (86 Ill.Adm.Code 1910.69(a)).

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 this appeal.

The appellant contends the subject property was being inequitably assessed. 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 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. The appellant failed to provide any information to establish a disparity among assessments within the assessment jurisdiction by clear and convincing evidence.

The Illinois Appellant Court has previously pointed out that property selected for comparison must in fact be similar in kind and character and must be similarly situated to the property to be valued. DuPage Bank & Trust Co. v. Property Tax Appeal Board, 151 Ill.App. 3d 624, 630 (1986). In addition, the Official Rules of the Property Tax Appeal Board provide in pertinent part:

Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of the subject property and it is recommended that no less than three comparable properties be submitted. Documentation must be submitted showing the similarity, proximity and lack

of distinguishing characteristics of the assessment comparables to the subject property.

86 Ill.Admin.Code §1910.65(b). In this appeal the appellant originally submitted only the two-page "Real Estate Market Analysis." Pursuant to Section 1910.30(k), the appeal was return to appellant's counsel to provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. (86 Ill.Admin. Code §1910.30(k)). In response to notification that the petition was incomplete, counsel for the appellant submitted a copy of the letter from the Building and Code Enforcement Division Manager in St. Charles and marked the basis of appeal as assessment equity.

As highlighted by the Appellate Court's opinion in Commonwealth Edison Co. v. Illinois Property Tax Appeal Board, 378 Ill.App.3d 901 (2nd Dist. 2008), it is the appellant or contesting party that has the burden of first producing sufficient evidence or argument to challenge the correctness of the assessment. Id. at 914. The Property Tax Appeal Board finds on this record that the appellant did not sustain his burden under Section 1910.63(b) which provides that:

Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. Failure to do so will result in the dismissal of the appeal.

86 Ill.Admin.Code §1910.63(b). Although the appellant submitted documentation indicating the subject property was not buildable, the appellant provided no equity comparables or market data demonstrating that the subject was inequitably assessed or that the assessment was excessive in relation to the property's market value considering its status as an unbuildable lot.

Based on this record the Board finds the appellant's submission is insufficient as a matter of law to challenge the correctness of the assessment. As a result the Board finds the appellant failed to satisfy the burden of going forward with substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property as required by section 1910.63(b) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.63(b)).

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

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: August 19, 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.