



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

APPELLANT: Equilon Enterprises  
DOCKET NO.: 08-04777.001-C-2  
PARCEL NO.: 05-28-402-005

The parties of record before the Property Tax Appeal Board are Equilon Enterprises, the appellant, by attorneys Donald F. Hemmesch and Daniel J. Heywood of the Law Offices of Smith, Hemmesch, Burke, Brannigan & Guerin, Chicago, Illinois; the DuPage County Board of Review; and Wheaton-Warrenville Community Unit School Dist. No. 2000, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C., Chicago, Illinois.<sup>1</sup>

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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$637,880  
IMPR: \$72,430  
TOTAL: \$710,310**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a 60,984 square foot site improved with a one-story, metal panel and stucco constructed gas station building with approximately 960 square feet of building area and a separate car wash with 1,800 square feet of building area. Other features include four islands with eight pumps and 16 fueling stations. The property also has a 9,650 square foot canopy with 30 lights that covers the pumps and fueling stations. The gas station was constructed in 1989. The subject has a land to building ratio of approximately 22.09:1. The property is located at 2025 South Naperville Road, Wheaton, Milton Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by attorney Daniel J. Heywood contending overvaluation as the basis of the appeal. In support of the argument the appellant

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<sup>1</sup> The intervenor failed to appear at the scheduled hearing and is found to be in default pursuant to Section 1910.69(b) of the rules of the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.69(b).

submitted a narrative appraisal prepared by real estate appraiser Joseph M. Ryan of LaSalle Appraisal Group, Inc. estimating the property had a market value of \$1,710,000 as of January 1, 2008, which was marked as Appellant's Exhibit #1.

Ryan was called as a witness on behalf of the appellant. Ryan has been the owner of LaSalle Appraisal Group, Inc. since 1991. Beginning in 1980 Ryan worked with the Cook County Assessor's Office. His last position with the Cook County Assessor's Office was as Director of Technical Review where he was responsible for the application and review of all assessment complaints. Ryan also has the Member of the Appraisal Institute (MAI) designation from the Appraisal Institute and is a State of Illinois licensed Certified General Real Estate Appraiser.

Ryan has appraised between 600 and 650 gas stations. He has appraised gas stations and bulk oil storage terminals for such companies as Marathon, Equilon, Shell, BP and Exxon Mobile. The witness testified the unit of comparison used in the oil industry for buying and selling service stations is price per square foot of land area, building included. Therefore, the unit of comparison he uses in valuing service stations is price per square foot of land area. The witness explained that the most significant component of a gas station is the land. He also testified that you typically get a much narrower ranged of unit values when land is used as opposed to using the square foot of building area as the unit of comparison.

The witness further explained that when a gas station is sold from an oil company to a franchisee there is typically some type of covenant or deed restriction where for a specified time that franchisee is to be associated with that product. He also stated that a gas station is typically sold as a going concern with inventory, business equipment and the product name included in the transaction.

Ryan testified the purpose of the appraisal was to estimate the fee simple market value of the property for assessment purposes. The witness explained the subject property was located off a secondary street from Naperville Road, a major north/south arterial street. The appellant's appraiser also testified the subject gas station was constructed in 1989 and was approximately 19 years old as of the assessment date; however, he estimated the subject had an effective age of 12 years. Ryan further stated that the Marshall & Swift Cost Manual indicated the normal economic life of a gas station was 25 years, resulting in a remaining economic life of 13 years. Ryan also determined the highest and best use of the property as improved was for continued use as a gas station.

In estimating the market value of the subject property Ryan developed only the sales comparison approach to value. The cost approach was not deemed appropriate because the building was 19 years old. He also stated within the appraisal that buyers and sellers within the market place don't rely on the cost approach

in their investment decisions. He further testified the income approach was not developed because typically service station properties are leased based on gallons pumped at the site, which includes a business value component.

In the sales comparison approach Ryan used five sales located in Aurora, Warrenville, and Downers Grove that ranged in size from 41,848 to 67,518 square feet of land area. The comparables were improved with buildings that ranged in size from 3,360 to 5,124 square feet of building area and in age from 5 to 18 years old. The comparables had land to building ratios ranging from 10.01:1 to 18.26:1. The sales occurred from June 2005 to September 2008 for prices ranging from \$972,000 to \$1,910,000 or from \$17.77 to \$31.14 per square foot of land area, building included. Ryan testified the properties selected were comparable to the subject property in land square footage, building area and location. The appraiser compared and contrasted each of the sales to the subject property based on location, land size, age, land to building ratio, property rights, condition of sale and market conditions. After considering these adjustments, Ryan estimated the subject property had a market value of \$28 per square foot of land area, building included, or \$1,710,000, rounded.

Ryan testified he accounted for the dates of sale of his comparables #1 and #2 that sold in 2005 and considered both arm's length transactions. Ryan also testified with respect to comparable #4 that the gas station improvements had been removed from the property and the sale was just of the real estate. This property is now operated as a car wash. Ryan also considered sales #3 and #5 arm's length transactions. The witness also testified all the sales were located in DuPage County within 15 miles of the subject property.

Under cross-examination Ryan stated the subject is like a mini-mart and has a car wash. He further testified the subject property is located at a signalized intersection. Sale #1 is not located on a signalized intersection making it an inferior location. This comparable did have a separate car wash building. Sale #2 included a mini-mart but did not have a separate car wash and was not located on a signalized corner unlike the subject. Sale #3 had a mini-mart but no separate car wash. This property had a signalized location. Sale #4 was described as being on a signalized corner. Sale #5 had a mini-mart, car wash and a McDonald's restaurant.

The witness further explained that upward adjustments for time were made to comparables sales #1, #2 and #5. He also testified that each comparable had an upward adjustment for land to building ratio.

Ryan agreed the subject property was located at a signalized intersection. The witness further testified the prices he quoted for the comparables were from the transfer declarations, which are suppose to exclude personalty. With respect to page 35 of his appraisal Ryan had two different building sizes listed for

his sale #3 but testified the correct size was 3,360 square feet of building area. Similarly, with respect to page 39 of his appraisal Ryan had two different building sizes listed for his sale #5 but testified the correct size was 5,124 square feet of building area. He also agreed that the unit sales price for this comparable as quoted on page 39 was incorrect. The appraiser also explained that the description of comparable #4 being improved with an "older" building meant older than the subject building but he did not know the age. He also testified this building sold without the gas station equipment and was converted to a car wash, a somewhat different use. With respect to sale #5, Ryan agreed that McDonald's was a tenant in part of the building area with a lease in place at the time of sale, making the transaction a leased-fee arrangement. His narrative on this sale also stated there was a deed restriction on the property and states that the new owner must only sell BP brand gas at the site for 20 years.

Based on this evidence the appellant requested the subject's assessment be reduced to reflect the appraised value.

The board for review submitted its "Board or Review Notes on Appeal" and an analysis prepared by the Milton Township Assessor's Office, which was marked as Board of Review Exhibit #1. The subject property had a final total assessment of \$768,530 which reflects a market value of \$2,309,979 or \$37.88 per square foot of land area, building included, when applying the 2008 three year average median level of assessments for DuPage County of 33.27% as determined by the Illinois Department of Revenue.

The board of review called as its witness Dawn Hanson, deputy assessor for Milton Township. Hanson has had the Certified Illinois Assessing Officer (CIAO) designation since 1994. She has also served as the Fox Township Assessor and served on the Kendall County Board of Review for five years. Hanson also worked as a residential deputy assessor for York Township for five years. She further testified she has been with the Milton Township Assessor's Office for approximately five years with the last four years as commercial deputy assessor. The witness also explained that in the early 1980's she worked with an MAI traveling the country writing reports and valuing commercial and industrial properties.

Under voir dire Hanson testified she is not an appraiser but had her appraisal license around the "late 1990's through 2000 something." Hanson testified she is a licensed real estate agent. Hanson called Board of Review Exhibit #1 an analysis prepared for the Property Tax Appeal Board hearing. She testified that several years ago she prepared a basic appraisal of a gas station located in LaSalle County that was converted to an auto repair business. The witness indicated she was assigned gas station valuations in Milton Township about 2009 and had started working in the Milton Township Assessor's Office in 2007.

Hanson explained that to maintain the CIAO designation one has to comply with continuing education requirements and she is current with that. She testified she has taken course work in valuing commercial properties to maintain her designation.

Over the objection of the appellant's counsel, Hanson was accepted as an expert and allowed to testify as an opinion witness before the Property Tax Appeal Board.

Hanson testified the subject property is located on the corner of Naperville Road and Loop Road in Danada, a very strong commercial location in Milton Township. She explained that to the south of the subject property is the Danada East Shopping Center and across the street is the Danada West Shopping Center. The witness further testified that to the east of Danada East is the Rice Lake Shopping Center and an Aldi is across the street from the subject property. Hanson also stated the subject property is a signalized location. Hanson's analysis contains two aerial photographs depicting the location of the subject property at the intersection of Naperville Road and East Loop Road. The aerial photographs also depict the area surrounding the subject as being developed as commercial properties.

In support of the assessment Hanson selected nine comparable sales which were listed in Board of Review Exhibit #1. The comparables were located in the communities of Aurora, Woodridge, Bartlett, Roselle, Willowbrook, Lombard, Bloomingdale, Wheaton and West Chicago. Board of review comparable sale #1 was the same sale as Ryan's sale #3. The comparables ranged in land area size from 13,425 to 84,584 square feet. The comparables were improved with buildings that ranged in size 410 to 3,142 square feet of building area that were constructed from 1958 to 2005. The comparables had from one to three islands; from three to six pumps; and from 6 to 12 fueling stations. Each comparable had some sort of mini-mart and only one comparable had separate car wash. These properties had land to building ratios ranging from 13.24:1 to 83.78:1. The sales occurred from May 2005 to October 2007 for prices ranging from \$930,000 to \$3,000,000 or from \$607.89 to \$3,170.73 per square foot of building area, land included. Alternatively, the comparables sold for unit prices ranging from \$30.03 to \$69.27 per square foot of land area, including building.

Hanson testified her comparable sales #1, #2, #3, #6, #7 and #9 are at signalized intersections. Hanson also testified her comparable #6 had a separate car wash. The witness also agreed with Ryan that the best unit of comparison is sales price per square foot of land area, including building. Hanson was also of the opinion the best comparable sale was sale #6.

Hanson explained the comparables she used had a median sales price of \$43.00 per square foot of land area, building included, rounded. When applying the median price to the subject's land area results in an estimated market value of \$2,618,743. Hanson also included the appellant's appraiser's sales in a separate

grid, each had an equivalent or lower price than the nine sales selected by Hanson. In the analysis she explained that if the appraiser's sale #5 is eliminated because it sold in September 2008, the median price would be \$38.00 per square foot of land area, including building. When applying this unit value the estimated market value of the subject is calculated to be \$2,314,000.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination Hanson agreed that she applied a 20% negative adjustment to sale #6 when basing her analysis on a building square foot unit of comparison. She also agreed if one applied the 20% reduction to the unit value of \$35.00 per square foot of land area, including building, the result would be \$28.00 per square foot of land area, including building.

Hanson also explained that the building size for her comparable sale #1, which differed from the appraiser's stated size for the same property, was obtained from the township assessor for the township where the property is located.

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 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. 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)). The Board finds the market data in the record demonstrates a reduction in the subject's assessment is warranted.

Initially, the Board finds the parties are in general agreement with respect to the description of the subject property. The Board further finds both parties presented either an appraisal or a valuation analysis in which both relied on comparable sales of gas stations. Additionally, both the appellant's appraiser and the deputy assessor agreed the appropriate unit of comparison to value gas stations is to use price per square foot of land area, including the building.

The record contains sales data on five comparables contained in the appellant's appraisal and nine sales contained in the board of review's valuation report prepared by the deputy township

assessor.<sup>2</sup> The Board gave less weight to the appellant's comparable sales #1 and #2 due to the fact they both sold in June 2005, approximately 2½ years prior to the assessment date at issue. The Board also gave less weight to appellant's comparable sale #4 due to the fact that there was a change in use from a gas station to a car wash. This change in use indicates this sale and the subject property differed in highest and best use as improved and may not be substitutes in the market.

With respect the sales selected by Hanson, the Board finds little weight should be given to sales #4 and #5 due to fact both were improved with buildings significantly smaller and older than the subject building and the properties had land to building ratios significantly higher than the subject property. The Board gave less weight to sales #7, #8 and #9 due to the dates of sale and the building ages of sales #8 and #9.

The Board finds both Ryan and Hanson had a common sale located at 1207 North Eola Road, Aurora, Illinois, that sold in October 2007 for a price of \$1,910,000 or \$31.14 per square foot of land area, including building.<sup>3</sup> This property was improved with a building newer than the subject but had a similar land to building ratio as the subject property. Additionally, this property was located at a signalized intersection. The Board gives some weight to the appellant's comparable #5 but finds the sales price of \$17.77 per square foot of land area, including building, seems relatively low compared to other sales deemed relevant and probative by this Board. This relatively low sales price may be due to the fact there is a deed restriction stating the new owner must only sell BP brand gas at the site for 20 years. This sale also had a McDonald's leasing part of the building area at the time of sale making it somewhat different than the subject that had no fast food restaurant component. The Board also finds sales #2 and #3 used by Hanson were good comparable sales. These two comparables were improved with one-story retail service stations constructed in 1995 and 1996 with 1,872 and 2,858 square feet of building area, respectively. These properties had 34,556 and 65,340 square feet of land area resulting in land to building ratios of 18.46:1 and 22.86:1, respectively. These two comparables were slightly superior to the subject in building age but similar in land to building ratio. These two comparables were also similar to the subject in that they were located at signalized intersections. These comparables sold in October 2007 and September 2007 for prices of \$1,300,000 and \$2,801,000 or \$37.62 and \$42.87 per square foot of land area, including building. The Board also finds Hanson's comparable sale #6 to be most probative in estimating the market value of the subject property. This sale had both a mini-mart and a separate car wash, similar to

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<sup>2</sup> The Board takes notice that the sales used by both Ryan and Hanson are the same comparables used in a separate appeal before the Property Tax Appeal Board under Docket No. 08-02426.001-C-2. In that appeal the appellant was Marathon Petroleum Company, LLC.

<sup>3</sup> Ryan and Hanson differed slightly on both the building size and land size of this comparable. The Board accepts Ryan's conclusion of the unit price of this comparable.

the subject property. Additionally, this property was located at a signalized intersection like the subject property. This property had improvements that were newer than the subject property and a superior land to building ratio of 35.24:1 compared to the subject's land to building ratio of 22.09:1. The sale occurred in February 2006 for a price of \$3,000,000 or \$35.47 per square foot of land area, including building. In summary, the Board finds the best comparables in the record had unadjusted sales prices ranging from \$17.77 to \$42.87 per square foot of land area, building included.

In conclusion, after considering these most relevant sales and the testimony of the witnesses, the Property Tax Appeal Board finds the subject property had a market value of \$35.00 per square foot of land area, building included, resulting in a market value of \$2,135,000, rounded, as of January 1, 2008. Since market value has been established the 2008 three year average median level of assessments for DuPage County of 33.27% as determined by the Illinois Department of Revenue shall apply.

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

*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: May 18, 2012

*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.