



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

APPELLANT: Fairfax Health Care Properties, LLC  
DOCKET NO.: 08-20533.001-C-1  
PARCEL NO.: 16-31-308-006-0000

The parties of record before the Property Tax Appeal Board are Fairfax Health Care Properties, LLC, the appellant(s), by attorney Allen A. Lefkovitz, of Allen A. Lefkovitz & Assoc. P.C. in Chicago; 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:

**LAND:** \$ 21,705  
**IMPR.:** \$ 88,153  
**TOTAL:** \$ 109,858

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject has 16,230 square feet of land, which is improved with a 40 year old, one-story, masonry, commercial retail building. The subject's improvement size is 2,891 square feet of building area, which equates to an improvement assessment of \$30.49 per square foot of building area. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the subject's improvement as the basis of this appeal.

In support of the equity argument, the appellant submitted descriptive and assessment information for eight properties suggested as comparable to the subject. The comparables are described as one-story, masonry, commercial retail buildings. Additionally, the comparables range: in age from 10 to 59 years; in size from 1,984 to 12,750 square feet of building area; and in improvement assessments from \$5.18 to \$34.66 per square foot of building area. The comparables also have various amenities. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$109,858 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 eight commercial retail buildings located within two and one-half 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 Cook County 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 states 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 comparables are described as commercial retail buildings. Additionally, the comparables are from 30 to 76 years old, and have from 3,100 to 4,600 square feet of building area. The comparables sold between July 2003 and January 2009 for \$175,000 to \$850,000, or \$38.89 to \$231.10 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted assessment data for the eight sales comparables submitted by the board of review. These comparables had improvement assessments ranging from \$6.66 to \$31.91 per square foot of building area. The appellant also argued that the board of review's sales evidence should be given no weight, as it does not address the appellant's equity argument.

At hearing, the appellant's attorneys, Rostislav Pukshansky and Allen Lefkovitz, reaffirmed the evidence previously submitted. Mr. Pukshansky also sought to admit a chart of the descriptive and assessment data for the appellant's comparables with an attached bar graph detailing the comparables' improvement values per square foot. The Cook County Board of Review Analyst, Colin Brady, had no objection to the admission of this chart, and it was accepted into evidence and marked as "Appellant's Hearing Exhibit A."

The Property Tax Appeal Board (the "Board") then questioned Mr. Pukshansky about the appellant's Comparable #8, and whether the appellant believed that comparable to be similar to the subject. Mr. Pukshansky responded in the affirmative, but that this comparable was an "outlier." The appellant's attorneys did not describe how or why Comparable #8 was an "outlier." The Board then asked how this comparable supports the appellant's argument for a reduction based on inequitable treatment in the assessment process, since it has a higher improvement assessment than the subject. Mr. Lefkovitz answered that, based on a "totality of the evidence," the evidence supports a reduction. Mr. Lefkovitz then went on to explain why the subject should get a reduction, despite the fact that Comparable #8 is similar to the subject, but assessed higher. Mr. Pukshansky then opined that, when determining the proper assessment of the subject, the Board

should "look at the evidence as a whole." Next, Mr. Pukshansky stated that Comparable #8 was distinguishable from the subject, but still had a similar age, classification, and location. Mr. Lefkovitz then described the adjustments that he wished the Board would apply to the various comparables submitted by the appellant, in order to arrive at the correct assessment for the subject. The Board then asked whether the comparables submitted by the appellant were similar to the subject, in the appellant's attorneys' opinion. Mr. Pukshansky answered in the affirmative.

Mr. Brady rested on the evidence previously submitted.

In rebuttal, Mr. Pukshansky submitted a chart detailing the descriptive and assessment data for the board of review's comparables, with an attached bar graph showing the board of review's comparables' improvement values per square foot. Mr. Brady did not object to the submission of the chart, and it was accepted into evidence and marked as "Appellant's Hearing Exhibit B." Mr. Pukshansky then asked the Board to take judicial notice of Docket Number 07-27516.001-C-1, which the Board did. Mr. Pukshansky asserted that the instant appeal is similar to this previously issued decision.

After reviewing the record, considering the evidence, and hearing the testimony, the 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 improvement 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, 654-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

Initially, the Board finds that the appellant's "totality of the evidence" argument made at hearing is without merit because it lacks a basis in law. The terms "totality of the evidence" or "totality of the circumstances" do not appear anywhere in either the Illinois Property Tax Code or the Official Rules of the Property Tax Appeal Board. 35 ILCS 200/1-1 *et seq.*; 86 Ill.

Admin. Code § 1910.5 *et seq.* Black's Law Dictionary defines "totality of the circumstances" as follows:

A standard for determining whether hearsay (such as an informant's tip) is sufficiently reliable to establish probable cause for an arrest or search warrant. Under this test - which replaced *Aguilar-Spinelli's* two-pronged approach - the reliability of the hearsay is weighed by focusing on the entire situation as described in the probable-cause affidavit, and not on any one specific factor.

Black's Law Dictionary (9th ed. 2009). Plainly, this definition does not apply in this property tax appeal. The Board is unaware of any other constitutional provisions, statutes, appellate or supreme court cases, or administrative rules which allow for the Board to apply a "totality of the evidence" standard to property tax cases. In fact, the law is crystal clear on this issue. In appeals before the Board where a lack of uniformity is asserted, the appellant's burden of proof is clear and convincing evidence, and not a "totality of the circumstances." E.g., 86 Ill Admin. Code § 1910.65(b). Thus, the Board finds that the appellant's argument made at hearing is without merit.

The Board finds that Comparables #6, #7, and #8 submitted by the appellant, and Comparables #3, and #6 submitted by the board of review were most similar to the subject in location, size, style, exterior construction, features, and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$16.43 to \$34.66 per square foot of building area. The subject's improvement assessment of \$30.49 per square foot of building area is within the range established by the most similar comparables. Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement 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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Marko M. Louie*

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: June 21, 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.