



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

APPELLANT: Timothy Zaehler
DOCKET NO.: 08-30932.001-C-1
PARCEL NO.: 08-24-303-025-0000

The parties of record before the Property Tax Appeal Board are Timothy Zaehler, the appellant(s), by attorney Louis Capozzoli in Des Plaines, and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$75,355
IMPR.: \$85,690
TOTAL: \$161,045

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 23,330 square foot parcel of land improved with an 11-year old, one-story, masonry, commercial building containing 3,250 square feet of living area. The appellant, via counsel, argued both unequal treatment in the assessment process of the improvement and that the subject's assessment does not accurately reflect its market value as the bases of this appeal.

In support of these arguments, the appellant submitted assessment data and descriptions on 11 properties suggested as comparable. The properties are described as one-story, masonry, commercial buildings with various amenities. The properties range: in age from 20 to 56 years; in size from 1,150 to 11,365 square feet of building area; and in improvement assessment from

\$9.59 to \$26.27 per square foot of building area. Seven of these properties sold from February 2004 to December 2006 for prices ranging from \$393,500 to \$675,000 or from \$52.79 to \$107.95 per square foot of building area. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" where the subject's improvement assessment of \$128,419 or \$39.51 per square foot of building area and total assessment of \$203,774 were disclosed. The total assessment reflects a market value of \$536,247 or \$174.17 per square foot of building area.

In support of the assessment, the board submitted copies of the property record card for the subject as well as raw sales data on six properties. These properties contain between 2,000 and 11,832 square feet of building area and sold for prices ranging from \$560,000 to \$2,125,000 or from \$164.81 to \$325.00 per square of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a letter arguing that three of the board of review's sales comparables have lower improvement assessments than the subject.

At hearing, the appellant's witness, Robert Capozzoli, testified that the board of review's comparable #5 has a different address than that listed by the board of review, but does have a 2008 assessment that is lower than the subject. He testified he looked to the parcel identification numbers when reviewing the board of review's data.

Mr. Capozzoli described the subject property as half garage and half retail store for large, recreational vehicles.

The board of review's representative, Roland Lara, argued that the appellant's petition requested a rollover of the 2007 decision, but that a commercial property does not qualify for a rollover. In addition, he argued that the argument the appellant's petition indications only a contention of law complaint and does indicate an equity or market value appeal.

In addition, Mr. Lara testified that the appellant's comparables #4, #5, #6 and #7 are not classified the same as the subject, 5-17 one-story commercial building, but are classified as 5-93, industrial building, or 5-22, public garage.

On cross-examination, Mr. Lara testified that the board of review's comparables are market value comparables and not equity comparables. He argued that the assessed values for these properties should not be reviewed as evidence because there was no determination as to whether they are partial assessments or if some other type of relief, such as occupancy relief, was granted for these properties. Mr. Lara testified that the appellant's comparables, even though classified differently, has the same level of assessment as the subject.

After considering the evidence and reviewing the testimony, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The board of review argued that since the appellant did not check the "Assessment equity" or "Comparable sales" boxes in Section 2d of the Board's Residential Appeal form, the equity and sales evidence are not properly before the Board. The Board does not find this argument persuasive. At hearing, the board of review cited Board appeal number 08-25338.001-R-1, which states in relevant part:

Pursuant to Section 1910.50 of the Official Rules of the Property Tax Appeal Board, "[e]ach appeal shall be limited to the grounds listed in the petition filed with the Board." (86 Ill.Admin.Code Sec. 1910.50(a) citing to 35 ILCS 200/16-180 of the Property Tax Code) See also Cook County Board of Review v. Property Tax Appeal Board, 345 Ill. App. 3d 539 (1st Dist. 2003). Therefore, the Property Tax Appeal Board will not examine the aforementioned equity data, comparable sales data, or recent appraisal submitted by the appellant as 'recent sale' was the only basis for this appeal.

Chris Richards, PTAB 08-25338.001-R-1 (2012) (brackets and single quotes in original). Section 16-180 of the Property Tax Code uses the phrase "in the petition," but does not define what constitutes the "petition." In other words, does the "petition" include just the Board's Residential Appeal form, or does it also include any legal brief submitted by the appellant, or any evidence submitted by the appellant?

The cardinal principle of statutory interpretation is that the court must effectuate legislative intent.

The best indicator of legislative intent is the statutory language. The court should consider the statute in its entirety, keeping in mind the subject it addresses and the legislature's apparent objective in enacting it. A reviewing court's inquiry, however, must always begin with the language of the statute itself, which is the surest and most reliable indicator of the legislature's intent. When the language of a statute is clear, it must be applied as written without resort to further aids or tools of interpretation. If statutory language is plain, the court cannot read into the statute exceptions, limitations, or conditions that the legislature did not express. Only when the meaning of the statute cannot be ascertained from the language itself may a court look beyond the language and resort to aids for construction.

Bd. of Educ. of Marquardt Sch. Dist. No. 15 v. Reg'l Bd. of Sch. Trustees of Du Page Cnty., 2012 IL App (2d) 110,360 (2d Dist. 2012) (citations omitted).

The word "petition" as it is used within the context of Section 16-180 is ambiguous, and the Board must construe the term using the principals of statutory construction described in Marquardt. When looking to the legislative history of Section 16-180, the meaning of the word "petition" as it is used in that section becomes clear.

Section 16-180 was amended by Public Act 93-248, which added the sentence, "Each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board." H.B. 2567, 93rd Gen. Assemb., Reg. Sess. (Ill. 2003) (enacted). During debate in the House of Representatives, the chairman of the House Revenue Committee at the time, Representative Molaro, stood in support of the bill, and stated as follows:

So, all this Bill says, when you go to PTAB and you want your taxes reduced and you say these are the seven reasons, then when you go to PTAB to argue it you stick with those seven reasons. You shouldn't be able to surprise the assessor and surprise the other taxpayers. This isn't that type of thing. We're not looking for surprises. It should all be laid out. We should see what it is. And if you lay it out and you weren't fairly assessed you should get the reduction. That's the American way. And I urge an "aye" vote.

93rd Gen. Assemb., 35th Legis. Day, H. of Reps., Floor Debate on HB 2567 (statements by Representative Molaro). Representative Molaro was also a chief co-sponsor of HB 2567.

According to the legislative debate regarding HB 2567, it seems clear that the intention of the added sentence was to prevent the adversarial party from being surprised with a new or different argument made while at the Board. However, no one stated during debate that a particular box must be checked on a particular form for an argument to be properly before the Board.

Based on the foregoing discussion, the Board finds that the legislative intent in adding the sentence to Section 16-180 via Public Act 93-248 was to avoid a surprise argument. Thus, it appears the word "petition" as used in Section 16-180 may include everything submitted by the appellant, since everything would be available to the board of review, and it could prepare a proper defense based on the appeal form, brief, evidence, or any other documentation submitted by the appellant. With the ability to prepare a proper defense, the board of review can hardly say it was surprised at hearing by the assessment equity and comparable sales arguments made by the appellant.

The appellant raised the assessment equity and comparable sales arguments in the brief, Section V of the appeal form, and also through the submission of photographs and sales data. The board of review made aware of the appellant's arguments through the appellant's brief and evidence.

Furthermore, when taken in context with the entirety of the documentation and evidence submitted by the appellant, it is clear that the appellant intended to raise market value and assessment equity arguments based on comparable properties. See, e.g., People v. Solan, 2012 IL App (2d) 110944 (2d Dist. 2012) (finding that, although the criminal complaint against the defendant stated that the charge against him was leaving the scene of an accident, when looking at the entire complaint, it is clear that this was a scrivener's error on the part of the arresting officer, and that the actual charge should have read driving while under the influence of alcohol). Moreover, each appeal before the Board "shall be based upon equity and the weight of the evidence." Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (2d) 110,461, (1st Dist. 2012); 35 ILCS 200/16-185. In other words, each appeal to the Board is necessarily fact specific, and must be based upon the particular record of each case. See Ridgeland

Sch. Dist., 2012 IL App. (2d) 110,461. Thus, the Board's decision in appeal number 08-25338.001-R-1 is not binding on the Board in this appeal. Therefore, the Board finds that the assessment equity and comparable sales arguments are properly before the Board even though the appellant did not check the "Assessment equity" or "Comparable sales" boxes in Section 2d of the Board's Commercial Appeal form.

Moving on to the appellant's arguments, when overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction based on market value is not warranted.

The parties presented sales information on a total of 13 suggested comparables. In reviewing the evidence, the Board finds the appellant's comparables #1, #2, #4, and #5 and the board of review's comparables #4, #5 and #6 most similar to the subject and with sales dates closest to the lien date in question. Therefore, these properties receive the most weight in the analysis. These properties sold between March 2005 and October 2008 for prices ranging from \$393,500 to \$2,100,000 or from \$78.70 to \$270.73 per square foot of building area, including land. In comparison, the subject properties assessment reflects a value of \$174.17 per square foot of building area, including land, which is within the range established by the most similar comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds that the appellant has failed to establish by a preponderance of the evidence that the subject is overvalued and a reduction is not warranted.

As to the equity argument, appellants 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, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of

assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. *Property Tax Appeal Board Rule 1910.65(b)*. Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

The appellant presented assessment data on a total of 11 properties and included the assessment data for three of the board of review's comparables. The Board finds the appellant's comparables similar to the subject. The properties range: in age from 20 to 56 years; in size from 1,150 to 11,365 square feet of building area; and in improvement assessment from \$9.59 to \$26.27 per square foot of building area. In comparison, the subject's improvement assessment of \$39.51 per square foot of building area is above the range of these comparables. Therefore, after considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is not supported and a reduction in the improvement assessment is 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. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: February 21, 2014

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.