FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: HSM Investment LLC
DOCKET NO.: 09-01085.001-C-1
PARCEL NO.: 06-03-26-203-124-0000

The parties of record before the Property Tax Appeal Board are HSM Investment LLC, the appellant, by attorney Dennis T. McCubbin, Attorney at Law, in St. Louis; and the Will 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 **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$146,000
IMPR.:	$0
TOTAL:	$146,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel contains 3.65 acres or 158,994 square feet of unimproved land area located in Plainfield Township, Will County, Illinois

The appellant, through counsel, appeared before the Property Tax Appeal Board claiming assessment inequity regarding the subject's land assessment as the basis of the appeal. In support of this argument, the appellant submitted a grid analysis of four suggested comparable lots located in close proximity to the subject. The comparables contain from 1.46 to 2.31 acres or from 63,598 to 100,624 square feet of land area. The comparables have land assessments ranging from $4,867 to $7,700 per acre or $0.08 per square foot of land area.

Counsel argued that the subject's assessment increased by 51% between 2008 and 2009, which is excessive.

Based on this evidence, the appellant requested a reduction in the subject's land assessment to $52,998 or $0.33 per square foot of land area.

The board of review's representative, John Trowbridge, objected to the use of the appellant's evidence, because the preparer, Chuck Schmitz, was not present at the hearing to answer questions about the selection of the comparables.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $146,000 was disclosed. The board of review presented a grid analysis of three comparables and property record cards, aerial photographs and a map depicting the location of both parties' comparable properties. The comparables contain from 61,420 to 143,312 square feet of land area. The comparables have land assessments ranging from $120,963 to $158,629 or from $1.11 to $2.23 per square foot of land area.

Additionally, Trowbridge argued the appellant's comparables were receiving a developer's preferential assessment pursuant to Section 10-30 of the Property Tax Code. (35 ILCS 200/10-30)

Trowbridge called Plainfield Township Assessor, Erin Kljaich, to explain the 51% assessment increase for 2009. Kljaich stated, "We did that factor on all the parcel land for the township that year." The factor was determined from a sales analysis study of similar properties that did not receive a developer's assessment.

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

In rebuttal, the appellant's counsel argued that even though Mr. Schmitz was not present, the Property Tax Appeal Board should still base its decision on the evidence in the case.

After hearing testimony 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 Board further finds no reduction in the subject's assessment is warranted.

The appellant contends unequal treatment in the subject's land 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). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The Board finds the appellant submitted four comparable properties for the Board's consideration. The board of review objected to the use of the comparable due to the preparer not being present at the hearing to answer questions as to the selection of comparables or be cross-examined. The Property Tax

Appeal Board hereby sustains the objection and gives no weight to the comparables. The appellant's preparer was not present at the hearing to provide direct testimony or be cross-examined regarding the selection of comparables. Given that the main thrust of the appellant's appeal was based on the lack of uniformity for the subject and the amount of assessments of the comparables, the testimony of Schmitz is a critical factor in this appeal. Therefore, the Board hereby sustains the hearsay objection raised by the board of review. Without the testimony of the appellant's preparer, the Board was not able to accurately determine the credibility, reliability and validity of the chosen comparables. In Novicki v. Department of Finance, 373 Ill. 342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. Moreover, the comparables received preferential land assessments pursuant to section 10-30 of the Property Tax Code (35 ILCS 200/10-30), unlike the subject.

The board of review submitted three comparables for the Boards consideration. These comparables have land assessments ranging from $120,963 to $158,629 or from $1.11 to $2.23 per square foot of land area. The subject has a land assessment of $146,000 or $0.92 per square foot of land area, which is below the range of the most similar comparables in the record. The Board finds the best comparable in this record is the board of review's comparable #3, which was most similar in size when compared to the subject. This comparable has a land assessment of $158,629 or $1.11 per square foot of land area, which is above the assessed value of the subject, further supporting the subject's assessment. Therefore, the Board finds the subject's land assessment is not excessive and no reduction in the subject's assessment is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclosed that the properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist on the basis of the evidence.

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.

Chairman

Member

Member

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 21, 2012

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.