



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

APPELLANT: Stephen King
DOCKET NO.: 09-04675.001-C-1
PARCEL NO.: 05-20-203-023

The parties of record before the Property Tax Appeal Board are Stephen King, the appellant, and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$228,610
IMPR.: \$358,970
TOTAL: \$587,580

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 29,295 square feet of land area is improved with three, 46-year-old, two-story frame and brick apartment buildings totaling approximately 16,800 square feet of living area for a total of 29 apartment units.¹ Features include a partial basement with laundry and/or office/studio apartment. The property is located in Wheaton, Milton Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal regarding the subject's land only. No dispute was raised concerning the improvement assessment. The appellant also reported that the subject property was purchased in March 2006 for \$1,745,000 or \$60,172 per apartment unit.

In support of the land inequity argument, the appellant submitted a grid analysis, Section V of the Commercial Appeal petition, along with attachments. The appellant presented three suggested

¹ There reportedly are 28 one-bedroom units of approximately 600 square feet of living area and one office/studio unit.

comparables located from "across the street" to 5-miles from the subject property. Each of these properties has been improved with an apartment complex ranging in size from 6 to 78 units. These comparable parcels range in size from 15,357 to 102,683 square feet of land area. These properties have land assessments ranging from \$40,850 to \$571,870 or from \$2.66 to \$5.57 per square foot of land area. The subject's 29,295 square feet of land area has a land assessment of \$228,610 or \$7.80 per square foot of land area.

At hearing, the appellant contended that the subject parcel was improperly compared to nearby parcels improved with a gas station and strip centers resulting in the subject's land value being charged as a "commercial" property rather than the substantially lower value of a residential property. The appellant provided no market value evidence to support his contention that the subject parcel should have a lower land assessment than nearby parcels of land.

The appellant also cited to a letter from the township assessor which acknowledged that the subject's land assessment was higher on a per-square-foot basis than the comparables the appellant has presented and characterized this as an 'agreement' by the assessor that the land assessment was in error and should be appealed to the Property Tax Appeal Board.² At the hearing, Dawn Hanson, Deputy Assessor with the Milton Township Assessor's Office acknowledged she had prepared the cited correspondence, but pointed out that given the additional comparables presented by the assessor and the property as a whole, the subject property was fairly and equitably assessed in both its land and improvements when compared to similar apartment complexes on a per-apartment-unit basis.

In addition, the appellant questioned the assessing officials' statement in the letter that "[w]e look at the overall value per unit and do not extract the land value and analyze that separately." The appellant argued, however, that the land is itemized separately in the assessment of the subject property.

As final points, the appellant testified that the 2010 land assessment of the subject property was raised to \$231,370 and "in this current year"³ the land assessment was reduced to \$97,650.⁴ In addition, the appellant asserted that currently the assessing officials have been requesting income and expense data from the appellant in order to analyze whether a change in the assessment

² The appellant cited the following two sentences from the letter: "The owner is concerned about the land assessment when compared to other uses in the immediate area. If broken out, the subject's land is valued substantially higher than the other properties mentioned."

³ The hearing was held on May 22, 2012. The appellant did not indicate whether the reduced land assessment was for tax year 2011 or 2012.

⁴ During the hearing, the appellant also testified that the improvement assessment was increased to \$542,880 for this latest assessment resulting in a total assessment of \$640,530.

of the subject property would be warranted. The appellant stated he has refused to provide this information.

Based on the foregoing evidence, the appellant contends that the subject's land assessment is not equitable. The appellant requested a reduction in the subject's land assessment to \$171,770 or \$5.86 per square foot of land area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$587,580 was disclosed consisting of a land assessment of \$228,610 and an improvement assessment of \$358,970. In support of the subject's assessment, the board of review submitted a memorandum with a grid analysis and applicable property record cards compiled by the Milton Township Assessor's Office.

As to the subject property, the assessing officials pointed out the property's location on Roosevelt Road and close proximity the Wheaton Metra train station along with a nearby park and walking trail. In addition, the subject property was reportedly completely renovated by the appellant after purchase. Also according to the assessing officials, there are a variety of commercial uses along Roosevelt Road including a gas station, offices and small multi-tenant retail strip centers.

As to land assessment inequity argument, the board of review articulated the methodology both in documentary evidence and through the testimony of Dawn Hanson, a Milton Township Deputy Assessor. Hanson testified that apartment buildings are considered to be commercial properties and since the subject has in excess of six units, it is considered to be "a multiple" which the assessor will value based on income if they have access to the income approach available, otherwise the assessor will consider sales. As set forth in the memorandum, to ascertain whether an apartment building is fairly and uniformly assessed, the assessor typically considers the value per apartment unit to be a very good gauge.

In support of the subject's land assessment, the assessor prepared a spreadsheet of the appellant's three comparables along with six suggested comparables identified as A through F as shown on page 4 of the board of review's submission. The assessor's comparables A through F range in size from 6,903 to 32,303 square feet of land area. Comparable F was located on Roosevelt Road like the subject. These parcels are improved with apartment buildings ranging in size from 8 to 32 apartment units. The properties have land assessments ranging from \$67,980 to \$291,820 or from \$8.20 to \$9.85 per square foot of land area while the subject has a land assessment of \$7.81 per square foot of land area.

On page 5 of the submission, the assessor presented three parcels in close proximity to the subject on Roosevelt Road. These parcels are improved with a gas station or a retail strip center and range in total lot size from 17,023 to 26,099 square feet of

land area. These commercial parcels have land assessments ranging from \$145,540 to \$221,850 or from \$7.53 to \$8.55 per square foot of land area such that the subject's land assessment of \$7.81 per square foot of land area falls within the range of these comparables in close proximity to the subject.

Hanson further testified that the subject's 2009 land assessment was established in comparison to other commercial uses on Roosevelt Road. In particular, the land assessment was derived based on neighboring parcels and then the improvement assessment was adjusted so as to arrive at a total per-apartment-unit value for the subject property. Hanson further testified that the appellant's land comparables are not on main thoroughfares like the subject. Hanson contended that the subject's land was assessed like land in close proximity to the subject. Moreover, Hanson stated that "in the big picture" the subject's per-apartment-unit value is at the very low end of the range of similar properties.

At hearing Hanson further opined that any recent land assessment reduction for the subject would have been balanced out with a change in the subject's improvement assessment so that the total assessment would have remained steady, unless reduced by a negative equalization factor.

According to Hanson, the assessor requests income and expense data from owners for apartment buildings which are income producing properties to obtain a more accurate picture of the property's value. She asserted that prices paid for apartment buildings do not necessarily accurately reflect value, but the income and expense data the assessor can ascertain whether a purchase price is or is not reflective of property value. In addition, this data allows the assessing officials to apply a vacancy for a property, if appropriate, or to make adjustments if there are very high expenses for some reason.

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

On cross-examination, Hanson stated that the recent change in the subject's land assessment was due to a re-examination of the multiples and "breaking out the land a little differently." The witness was asked if the land values for the comparables presented by the board of review were also modified, but Hanson did not have such data available to her during the hearing.

In addition, Hanson reiterated that the letter she prepared, and which the appellant has cited to, referred only to the three comparables the appellant presented depicting that the subject's land was "substantially higher than the other properties mentioned [by the appellant]."

In rebuttal, the appellant stated that there was a 20% increase in "the taxes this year" with the land assessment reduced and the improvement assessment increased. (See footnote 4 above) The

appellant contends, however, that values have substantially dropped and yet the assessment has been increasing on the subject property.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds that a reduction in the subject's land assessment is not warranted.

The appellant's argument was unequal treatment in the assessment process as to the subject's land assessment only. 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 assessment valuations 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. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

The only dispute before this Board is a land inequity contention. The parties submitted a total of 12 comparable properties to support their respective positions before the Property Tax Appeal Board. The suggested comparable parcels range in size from 6,903 to 32,303 square feet of land area and have land assessments ranging from \$2.66 to \$9.85 per square foot of land area. The subject has a land assessment of \$7.81 per square foot of land area, which is within the range of the comparables presented by both parties on this record. Moreover, the subject is most similar in parcel size to the board of review's comparables B, C, D and E along with the third comparable on page 5 of the board of review's evidence. These five comparables range in size from 25,912 to 32,303 square feet of land area and have land assessments ranging from \$8.20 to \$9.18 per square foot of land area. The subject's land assessment of \$7.81 per square foot of land area falls below these five most similarly sized comparables in the record.

When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one

value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test. [citation.] Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the Supreme Court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21.

The law does not require "absolute equality" in taxation. Schreiber v. County of Cook, 388 Ill. 297 (1944) ("Perfect equality and uniformity of taxation as regards individuals or corporations or different classes of property subject to taxation can hardly be visualized. Absolute equality is impracticable in taxation and is not required by the equal protection clause of the constitution. Inequalities that result occasionally and incidentally in the application of a system that is not arbitrary in its classification, and not applied in a hostile and discriminatory manner, are not sufficient to defeat the tax"); Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960) (the constitutional uniformity requirement is satisfied if the taxing body achieves a reasonable degree of uniformity).

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. 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 appellant disclosed that 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. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's land

assessment as established by the board of review is correct and no reduction is warranted.

In conclusion, on the basis of the assessment equity information submitted by the parties, the Board finds no evidence to demonstrate that the subject property is assessed in excess of what equity would dictate. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject was being inequitably assessed.

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

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: June 22, 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.