



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

APPELLANT: Charles Phillips
DOCKET NO.: 10-00781.001-R-1
PARCEL NO.: 16-05-25-100-030-0000

The parties of record before the Property Tax Appeal Board are Charles Phillips, the appellant; 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: \$37,153
IMPR.: \$22,192
TOTAL: \$59,345

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 2.241-acre parcel improved with several barns of various sizes, along with a detached frame garage. The subject is located in Homer Glen, Homer Township, Will County.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation and assessment inequity regarding the subject's land and improvement assessments as the bases of the appeal. In support of these arguments, the appellant submitted a land equity grid comprised of four suggested comparables, photographs of some of the buildings located on the subject parcel, a lease agreement for one of the storage buildings on the subject property and an "appraisal based upon the income approach" derived from two subject property leases.

The land inequity grid consists of four land comparables located within one mile from the subject. Comparables #1, #3 and #4 are improved with dwellings. The comparables have lot sizes of 2 or 4.32 acres of land area. These comparables have land assessments

ranging from 20,936 to 29,426 or from \$4,846 to \$14,713 per acre of land area.

The subject has a land assessment of \$37,153 or \$16,586 per acre of land area.

The appellant provided no data to support a challenge to the subject's improvement assessment value based on inequity.

As to the overvaluation argument, the appellant submitted an income approach analysis derived from two lease agreements, one of which was submitted as evidence. This data was referred to as "Appraisal Based Upon the Income Approach". Based on the two rents generated by the subject, the appellant arrived at a total yearly income possible of \$11,100. The appellant subtracted \$999 for vacancy and credit loss for a gross income of \$10,101 per year. The appellant then subtracted \$4,310 for real estate taxes for a net operating income of \$5,791 per year. The appellant then applied a 6% capitalization rate to arrive at a total value of \$96,516, one-third of which would be an appropriate assessed value of \$32,172.

The appellant also supplied a letter from the Village of Homer Glen stating that the subject parcel needs to be rezoned R-2 from A-1, if the appellant wants a single family dwelling built on the land.

Witness for the appellant, Ann Phillips, testified that there is no residence on the subject property as it burnt to the ground. The foundation of the dwelling was eliminated and the buildings that remain are in poor condition. Phillips testified that removal of the remaining buildings would be cost prohibitive.

Based on this evidence, the appellant requested the subject's land assessment be reduced to \$20,000 or \$8,930 per acre of land area and its improvement assessment be reduced to \$12,170.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$59,345 was disclosed. The subject's assessment reflects an estimated market value of \$178,535 using Will County's 2010 three-year median level of assessments of 33.24%.

In support of the subject's assessment, the board of review submitted a two-page brief, photographs of the subject's improvements, the subject's property record card, an opinion of market value based on an operating income statement, a grid of the appellant's comparables with aerial photographs and a land assessment grid with aerial photographs and property characteristic sheets.

The five land comparables presented by the board of review are located within one-half mile from the subject property. They range in size from 1.13 to 2.85 acres of land area and have land

assessments ranging from \$24,663 to \$62,591 or from \$16,892 to \$25,084 per acre of land area.

As to the overvaluation argument, the board of review submitted an income approach analysis prepared by the Homer Township deputy assessor Dale Butala. This data was referred to as "Operating income statement". Based on 7,461 square feet of rentable space, Butala arrived at a total gross income of \$33,574.50. Butala subtracted \$5,036 for vacancy and collection loss for an effective gross income of \$28,538. Butala then subtracted \$5,680 for total operating expenses for a net operating income of \$22,858. Butala then applied an 8% capitalization rate to arrive at a total value of \$285,729, one-third of which would be an assessed value of \$95,233.

During the hearing, the board of review's representative called Homer Township deputy assessor Dale Butala as a witness. Butala testified the appellant offered four land comparables and that comparable #1 was being assessed as a farm, comparable #2 is land locked and comparables #3 and #4 are flag lots without frontage like the subject.

Regarding the subject's improvement assessment, the board of review argued the subject barns are used for storage and thus have value. The board of review's witness testified he met the appellant at the subject property on October 23, 2008, along with the Village of Homer Glen's Chief Building Official, the deputy building official and the Code Compliance Officer. The appellant refused to allow anyone from the Village of Homer Glen to inspect the subject property. However, the appellant did permit Butala and another township deputy assessor to view the inside of the buildings. Since the Homer Glen building officials were not allowed on the property, the assessment officials, who are not structural engineers, assumed the subject barns and garage are structurally sound.

The appellant objected to evidence in the record from 2008, arguing that it has no relevance to the 2010 appeal. The hearing officer reserved ruling at the hearing.

The Property Tax Appeal Board hereby sustains the objection made by the appellant. The Board finds the evidence from 2008 regarding access to the subject property has no relevance to the 2010 instant appeal brought by the appellant. Therefore, the denial of access argument made by the board of review will be given no weight.

The board of review also argued that the appellant failed to supply any evidence that the improvements are overvalued or not equally assessed, other than the lease agreement, which only covered one of the improvements on the subject parcel. The board of review further argued that the income approach to value submitted by the appellant, did not use market rents as potential gross income and improperly included property taxes as expenses.

Under cross-examination, Butala acknowledged that his income approach to value also did not utilize market rents to establish potential gross income and a mistake was made when calculating the rent for the subject. Butala used \$4.50 per square foot in his analysis, when the actual rent would be approximately \$2.66 per square foot of rentable area.

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

In rebuttal, the appellant argued the board of review's comparables are zoned residential and are improved with dwellings, not agricultural like the subject, and are thus not valid comparables. The appellant also argued that his comparable #2 is not landlocked as purported to be by Butala, but has a driveway for access.

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 this appeal. The Property Tax Appeal Board further finds that a reduction in the subject's assessment is not warranted.

The appellant's argument in part was unequal treatment in the assessment process. 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 met this burden.

Regarding first the land inequity argument, the appellant argued the subject is zoned A-1 agricultural and should not be compared to residential land. However, the appellant used three improved properties as comparables, which diminishes this argument. Furthermore, the appellant testified that neither the land nor the building lease are of an agricultural use and there is no evidence in this record that the subject is entitled to a preferential assessment under Section 1-60 of the Property Tax Code. (35 ILCS 200/1-60) Finally, the board of review stated that the county defaults to a residential land assessment when agricultural improved land does not receive a preferential farmland assessment. The board of review further stated that since one of the buildings is being leased to a commercial business, the subject could be viewed as commercial use. The Property Tax Appeal Board finds that there is no evidence in the record that the subject's assessment is not reflective of one-third of its fair cash value, which would include non-farm agricultural, residential, commercial or industrial uses.

The Board finds the parties submitted nine equity land comparables for consideration. The Board gave less weight to the appellant's comparable #1 due to its significantly larger size when compared to the subject. The Board gave less weight to the board of review's comparable #6 due to its significantly smaller size when compared to the subject. The Board finds the remaining comparables submitted by the parties ranged in size from 1.43 to 2.85 acres and had land assessments ranging from \$24,663 to \$62,591 or from \$12,620 to \$24,513 per acre. The subject's land assessment of \$37,153 or \$16,586 per acre falls within this range. Therefore, the Property Tax Appeal Board finds the subject's land assessment is equitable and no reduction is warranted based on the evidence and testimony in this record.

As to the improvement inequity argument, the Board finds the appellant supplied no improvement comparables to address the improvement inequity argument. Therefore, the Property Tax Appeal Board finds that this aspect of the appellant's appeal will not be addressed further due to lack of sufficient evidence.

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.

The appellant also 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 (3rd Dist. 2002); 86 Ill.Admin.Code §1910.63(e). 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 appellant has not met the burden of moving forward and no reduction in the subject's assessment is warranted based on this record. In Commonwealth Edison Company v. Property Tax Appeal Board, 378 Ill.App.3d 901 (2nd Dist. 2008), the court held the appellant never carried its burden of production on such claim and never shifted the burden to the board of review to support its position on the value of the subject property, citing section 1910.63 of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.63(a)).

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach prepared by himself using the subject's actual income and expenses unconvincing and not supported by any credible market evidence in the record. An income analysis using the subject's actual income and expenses is unpersuasive. In Springfield Marine Bank v.

Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431. The appellant attempted to demonstrate through an income approach valuation that the subject's actual income and expenses are reflective of the market. However, in order to demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, the taxpayer must establish through the use of market derived comparable data, the market rent, vacancy and collection losses and expenses used to arrive at a net operating income reflective of the market and the property's capacity for earning income. Further, the appellant must establish through the use of market data a market derived capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence. The Board finds the income approach from the appellant is lacking any market data to support the opinion and is therefore not credible. As a result, the Property Tax Appeal Board gives this argument no weight.

The Board further finds the income approach analysis presented by the board of review lacks the same market data as that submitted by the appellant and therefore will be given no weight as well.

In conclusion, no change in the assessment of the subject is warranted based on overvaluation.

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

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: August 23, 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.