FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Francisco Realzola
DOCKET NO.: 10-02228.001-C-2
PARCEL NO.: 06-09-154-005

The parties of record before the Property Tax Appeal Board are Francisco Realzola, the appellant, by attorney Ronald M. Justin, of RMR Property Tax Solutions, in Hawthorn Woods; the Kane County Board of Review; and the Elgin S.D. U-46, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C. in Chicago.

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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$95,923
IMPR.:	$420,000
TOTAL:	$515,923

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story brick exterior constructed restaurant and banquet hall that contains 14,000 square feet of building area. The building was constructed in 1995. The subject has a 2.95-acre site located in Elgin, Elgin Township, Kane County.

The appellant appeared through counsel before the Property Tax Appeal Board contending lack of uniformity in the subject's improvement assessment. No challenge was made to the land assessment.

In support of the improvement inequity argument, the appellant submitted information on three comparable properties described as structures that range in size from 11,579 to 16,780 square feet of building area. The buildings were constructed from 1920 to 2008. At hearing, counsel for the appellant asserted the comparables were in close proximity to the subject. No other

descriptive details of the comparable properties were presented in the Section V grid analysis of the Commercial Appeal petition. These comparables reportedly have improvement assessments ranging from $166,435 to $291,649 or from $12.00 to $25.19 per square foot of building area. The subject's improvement assessment is $462,000 or $33.00 per square foot of building area.

On cross-examination, the board of review questioned whether there were any comparables more similar in age to the subject structure for comparison. Counsel for the appellant asserted there were no other similar properties available.

The Hearing Officer inquired if appellant's counsel had any reason to dispute the board of review's assertion that the correct improvement assessment for appellant's comparable #1 was actually $309,403 or $18.44 per square foot of building area. Counsel advised that he had no information to dispute the assertion of the correct assessment for this property.

Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to $249,340 which would reflect an assessment of $17.81 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total final assessment of $557,823 was disclosed.

In response to the appeal, the board of review presented a grid analysis of the three comparables presented by the appellant with the only revised data being the improvement assessment of comparable #1 as noted above.

The board of review called Steven Surnicki, Elgin Township Assessor, as its witness. The assessor noted the subject property is located on Randall Road "which at that time in 2010 was in front of a working Wal-Mart." The witness acknowledged that the "Wal-Mart sits after 2012, but it was still there. And the Sears Hardware building and a Frank's Nursery. Although they had left, it was still a viable location. It was still occupied." (TR. 7-8)[1] According to the witness, the subject was built as a restaurant and banquet facility and features two separate kitchens, brick exterior construction and is a large facility. He acknowledged that the subject was somewhat unique

[1] References to the transcript of the proceedings will be noted by "TR." followed by page citation(s).

given its size. However, Surnicki contended the subject is a "much higher quality building." (TR. 9)

Surnicki contended that appellant's comparable #1 was a converted movie theater which is located in the Elgin central business district "which is really a really hard comparison for location and value and equity." (TR. 8) Appellant's comparable #2 is actually a strip mall which is also considerably older and located on the north end of Elgin which "might hold a pizza place, but it is a community strip center." (TR. 8) Appellant's comparable #3 is a Golden Corral, buffet-style restaurant, located on Randall Road, but "not nearly the quality of the subject property." (TR. 8-9) Surnicki asserted that this comparable has inferior access on Randall Road when compared to the subject.

In support of the subject's assessment, the board of review presented a grid analysis of two comparable properties improved with one-story buildings one of which is of brick construction and one of which is not identified as to construction material. Surnicki testified that comparable #1 was a full-service restaurant known as IHOP which is not the same quality of building as the subject. The witness identified comparable #2 was an Applebee's, also a full-service restaurant which also lacks the quality of the subject property. As set forth in the grid analysis, these buildings contain 4,810 and 4,995 square feet of building area, respectively and each was constructed in 1996. These two comparables have improvement assessments of $251,987 and $229,619 or $52.39 and $45.97 per square foot of building area.

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

The intervenor failed to appear at the hearing scheduled in this matter and is hereby found to be in default pursuant to Section 1910.69(b) (86 Ill.Admin.Code §1910.69(b)). As a consequence of the default, the intervenor's evidence of eight suggested comparable sales will not be further considered on this record. Moreover, the Property Tax Appeal Board finds that submission of sales comparables in response to the appellant's lack of assessment uniformity argument is not responsive.

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

further finds a reduction in the subject's assessment is warranted.

The appellant contends unequal treatment in the subject's improvement 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 assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989); 86 Ill.Admin.Code §1910.63(e). 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 met this burden.

The parties submitted a total of five equity comparables to support their respective positions before the Property Tax Appeal Board. The board of review's comparables are dissimilar to the subject in size as these comparables contain either 4,810 or 4,995 square feet of building area and the subject contains 14,000 square feet of building area. Appellant's comparables #1 and #2 were substantially older than the subject having been built in 1920 and 1946 whereas the subject building was built in 1995.

The Property Tax Appeal Board has given reduced weight to the board of review's comparables which are both substantially smaller than the subject building. Due to their substantially older ages, the Board has also given reduced weight to appellant's comparables #1 and #2, although these buildings are more similar in size to the subject structure. The Board finds appellant's comparable #3 is the most similar to the subject in size, style, and age. Due to its similarities to the subject, this comparable received the most weight in the Board's analysis.

Appellant's comparable #3 had an improvement assessment of $291,649 or $25.19 per square foot of building area. The subject's improvement assessment of $462,000 or $33.00 per square foot of building area is above this most similar comparable in the record. Giving due consideration to the unrefuted testimony that there are some differences between the subject and appellant's comparable #3 in quality of construction and recognizing differences in size. The Board finds a slight reduction in the subject's improvement assessment is warranted.

Based on this record the Board finds the appellant did demonstrate with clear and convincing evidence that the

subject's improvement assessment was inequitable and a reduction in the subject's assessment is justified.

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: April 18, 2014

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.