



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

APPELLANT: Irvin Lawfer
DOCKET NO.: 10-03979.001-R-1
PARCEL NO.: 20-000-162-45

The parties of record before the Property Tax Appeal Board are Irvin Lawfer, the appellant, and the Jo Daviess 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 Jo Daviess County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$5,053
IMPR.: \$28,415
TOTAL: \$33,468

Subject only to the State multiplier as applicable.

ANALYSIS

The subject 1.04-acre or 45,302 square foot parcel is improved with a single-family dwelling. The property is located in Willow Grove subdivision in Stockton, Wards Grove Township, Jo Daviess County.

The appellant appeared before the Property Tax Appeal Board contending both unequal treatment in the assessment process and overvaluation with regard to the subject's land only. No dispute was raised concerning the subject's improvement assessment. The primary argument of the appellant is that the subject's increased land assessment for 2010 was not warranted by any sales data that the assessing officials have presented to the appellant as justification for the 2010 increase in the subject's land assessment/valuation.

At hearing, the appellant expounded that the reassessment decision increased the subject's land assessment from 2009 to 2010 from \$4,267 to \$5,053 for an increase of 15%; this was also an 18% increase from the 2008 assessment. The appellant was told by the assessing officials that the increase was based on 2007, 2008 and 2009 sales in the area. After receipt of the assessment

notice, the appellant obtained the sales data from the assessor's office which was used for the sales ratio study consisting of 24 or 25 property transfers, although there were no sales since 2000 within the subject's 18 lot subdivision of Willow Grove.

The appellant testified further that the sales that were used in the sales ratio study consisted mostly of farms or farm residences that were separated off from existing farms along with some forestry land; none were truly residential lots in the area in his opinion. The appellant, however, acknowledged that there were a few sales about five miles away, but those were within about one-mile of the village of Stockton whereas the subject is about eight-miles from the village of Stockton.

Prior to filing any assessment appeal, the appellant presented a Freedom of Information Act (FOIA) request to the office of the Jo Daviess County Supervisor of Assessments seeking what comparable parcels the assessing officials would be using if there was an assessment appeal. The appellant was given two comparables which he has presented in this appeal as comparables #1 and #2.

The appellant further explained that for purposes of uniformity and fairness, numerous area property owners signed a petition seeking to have the Jo Daviess County Board of Review review the land assessment increase in the Willow Grove subdivision and requested a reduction in land assessment to the 2008 level. No hearing was set on the petition and the board of review dismissed the petition.¹

To support these challenges to the subject's land assessment, the appellant presented a grid analysis of three comparable properties located within 1-mile of the subject. The parcels range in size from 357,192 to 867,715 square feet of land area or from 8.2 to 19.92-acres. The appellant testified that comparable #1 consists of undeveloped, unimproved timberland which is used for harvesting timber. His comparable #2 was the acquisition of additional acreage to an improved property and, upon subsequent review, the additional acreage was granted a preferential farmland assessment. The appellant further testified that comparable #3 was forest land "located about 4-miles away" and has a forestry management plan with a preferential assessment. These three parcels have land assessments ranging from \$150 to \$14,600 or from less than \$0.01 to \$0.04 per square foot of land area. The subject has a land assessment of \$5,053 or \$0.11 per square foot of land area. Based on this evidence, the appellant

¹ As a matter of Board jurisdiction, the Property Tax Code clearly authorizes the Property Tax Appeal Board to determine "the correct assessment of property which is the subject of an appeal." (35 ILCS 200/16-180). See also People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill. App. 3d 316 (2nd Dist. 1974) (only authority and power placed in the Board by statute is to receive appeals from decisions of boards of review, make rules of procedure, conduct hearings, and make a decision on the appeal). Thus, at hearing the Administrative Law Judge advised the appellant that any complaints regarding the appeal process before the Jo Daviess County Board of Review were not relevant to the instant proceeding.

requested a land assessment reduction to \$4,267 or \$0.09 per square foot of land area.

The appellant also reported that these three comparable parcels sold from 2007 to 2009 for prices ranging from \$85,000 to \$100,000 or from \$0.12 to \$0.24 per square foot of land area. The appellant's land assessment reduction request of \$4,267 would reflect a market value of approximately \$12,801 or \$0.28 per square foot of land area.

Based upon the foregoing data, the appellant contended that the assessor's sales ratio data did not justify an increase in the subject's land assessment and therefore the land assessment should be reduced to its 2009 level.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$33,468 was disclosed. The assessment consists of a land assessment of \$5,053 and an improvement assessment of \$28,415. The subject's land assessment for 2010 reflects an estimated market value of approximately \$15,111 or \$0.33 per square foot of land area or \$14,530 per acre of land area, when applying the three-year median level of assessments for Jo Daviess County of 33.44% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

In response to the appeal, the board of review presented a two-page memorandum along with evidence addressing both the appellant's comparables and the board of review's evidence. According to the memorandum, the subject land, like all non-farmland in Wards Grove Township, is assessed to reflect a market value of \$15,000 for the first acre and a market value of \$4,000 for any additional acreage. The board of review asserts that the higher value on the first acre takes into consideration well, septic, landscaping and other features.

As to the appellant's data, the board of review reported his comparable #1 consists of 8.2-acres with a sale price of \$10,366 per acre. Appellant's comparable #2, an improved property, consists of 12.3-acres of land and the dwelling is newer and larger than the subject dwelling. The board of review contends that for comparables #1 and #2, like the subject, the first acre has a market value of \$15,000 with each additional non-farm acre having a market value of \$4,000. Specifically, comparable #1 consists of one acre valued at \$15,000 and 7.2-acres valued at \$4,000 per acre. For comparable #2, the first acre is valued at \$15,000, 8.39-acres are valued at \$4,000 per acre and the remaining 7.91-acres of this property have a preferential farmland assessment. Comparable #3 presented by the appellant consists of 19.92-acres which sold for \$5,020 per acre, but the entire parcel has a preferential farmland assessment as it is in a Forestry Management Plan.

At hearing, the board of review's representative expounded that Wards Grove Township is a rural area with few subdivisions and

therefore few sales of one-acre parcels. In Exhibit B, the board of review presented a spreadsheet with descriptions of two vacant land sales. Comparable #1 consists of two parcels located in a small subdivision in Wards Grove Township totaling 4.69-acres of land area. These two parcels sold in September 2009 for \$75,000 or \$15,991 per acre of land area.² Comparable #2 consists of a 21.1-acre property in neighboring Pleasant Valley Township. This property sold in August 2007 for \$126,000 or \$5,972 per acre of land area.³

For Exhibit C, the board of review presented a spreadsheet of 21 equity comparables; comparables #1 through #13 are located in the subject's subdivision and comparables #14 through #21 are located elsewhere in Wards Grove Township.⁴ Four of these comparables consist of vacant land. The comparables range in size from 1.09 to 8.8-acres of land area. With the exception of comparable #1, the board of review's spreadsheet depicts that comparables #2 through #21 have a market value of \$15,000 for the first acre and various additional homesite acres are valued at \$4,000 per acre, with comparables #2, #3, #7 and #18 having a portion of land also otherwise assessed, such as #18 with 5-acres having a preferential farmland assessment.

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

In written rebuttal, the appellant asserted that the board of review's evidence "does not include any comparable market evidence to support the increased land assessment from the 2008 amount of \$4,267 to the 2010 figure of \$5,053" for the subject.

In rebuttal at hearing, the appellant disputed the assertion that his comparable #2, a parcel of 12.3-acres, with a land assessment of \$8,599 was similarly assessed to the subject for the homesite acreage.⁵ He also contends that board of review sale #1 actually consists of four parcels of property, not just the two parcels that are reported in the board of review's evidence. According to his testimony, two parcels were transferred as quit claim deeds and two were transferred as trusts. The appellant further questioned who the actual owner of these parcels was because "no one in the area has seen the owner" and therefore he contends this is not a comparable property. As to board of review sale #2, this property is owned by an individual who lives in Florida,

² Each parcel has a land assessment reflecting a value of \$15,000 for the first acre and \$4,000 per acre for additional acreage.

³ This parcel has a preferential farmland assessment.

⁴ Comparables #20 and #21 were also noted to have sold in February 2007 and December 2009. Comparable #20 is an improved property; comparable #21 consists of vacant land that sold for the equivalent of \$61,915 per acre of land area.

⁵ Close examination of the property record cards attached to the appellant's appeal reveals that appellant's comparable #2 had a total 2009 land assessment of \$8,599 consisting of \$149 for farmland and \$8,450 for a 'homesite.' The same document reveals a 2010 land assessment of \$16,321 consisting of \$134 for farmland plus \$16,187 for a 'homesite' consisting of \$5,000 for the first acre plus \$11,187 for 8.39-acres ($8.39 \times \$4,000 = \$33,560 \div 3 = \$11,187$).

consists of land that is entirely assessed as farmland and is located about 12-miles away from the subject property. As to the board of review's equity data, the appellant contends that several of the properties, like #20, include farm buildings and comparable #21 is "actually a commercial building."

In reply, the board of review contended that comparable #21 became a commercial property during the calendar year of 2010 and was altered as of 2011, but as of the assessment date for this appeal of January 1, 2010 the land was assessed like the subject.

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 Board further finds a reduction in the subject's land assessment is not warranted.

The appellant contends unequal treatment and/or overvaluation in the subject's land assessment as the sole 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). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. [Emphasis added.] The uniformity requirement prohibits taxing officials from valuating one kind of property within a taxing district at a certain proportion of its true value while valuating the same kind of property in the same district at a substantially lesser or greater proportion of its true value. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960); People ex rel. Hawthorne v. Bartlow, 111 Ill. App. 3d 513, 520 (4th Dist. 1983). A uniformity violation can be established through evidence regarding the assessed valuations of a small number of properties. Du Page County Board of Review v. Property Tax Appeal Board, 284 Ill. App. 3d 649, 655 (1996). The properties selected for comparison must be similar in kind and character and must be similarly situated to the subject property. Id. at 654.

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.] [Emphasis added.]

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.

As to the equity evidence, the appellant submitted three comparable properties and the board of review submitted 21 comparable properties. Both parties presented comparables located in Wards Grove Township. The comparable parcels vary greatly in size. However, the Property Tax Appeal Board has given no weight in terms of assessment equity to appellant's comparable #3 as this 19.92-acre parcel for 2010 was qualified for the preferential farmland assessment of \$150 and is thus dissimilar in use and assessment methodology from the subject residential parcel.

The Property Tax Appeal Board finds that the remaining 23 equity parcels submitted by both parties have been shown to have a uniform method of land assessment. The unrefuted evidence presented by the board of review establishes and a mathematical analysis of the data confirms that rural homesite parcels in Wards Grove Township for 2010 were assessed based on a market value for the first acre of \$15,000 and each additional homesite acre had a market value of \$4,000 per acre. Furthermore, each of these 23 comparables presented by both parties had a homesite assessment that reflected a market value of \$15,000 or an assessment of \$5,000 for the first acre and a market value of \$4,000 or an assessment of approximately \$1,333 for each additional acre or portion thereof. In addition, the subject's land assessment of \$5,000 for one acre of land area plus \$53 for .04 of an acre ($\$1,333 \times .04 = \53) is identical to these 23 equity comparables presented by both parties. In conclusion, the Board finds the appellant failed to establish land assessment inequity and a reduction in the subject's land assessment is not warranted on grounds of lack of uniformity.

The appellant also contended the assessment of the subject property was excessive and not reflective of its market value. 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). The Board finds the evidence in the record does not support a reduction in the subject's land assessment based on overvaluation.

The parties submitted a total of five comparable sales to support their respective positions before the Property Tax Appeal Board.⁶ None of the comparables is particularly similar to the subject property in terms of lot size and/or the existence of a dwelling. The five comparables presented by the parties sold between 2007 and 2009 for prices ranging from \$75,000 to \$126,000 or from \$5,020 to \$15,991 per acre of land area, which includes improvements only as to appellant's comparable #2. The subject's 2010 land assessment of \$5,053 reflects an estimated market value of approximately \$15,111 or \$14,530 per acre of land area, which falls within the range established by the comparable sales presented by the parties. After considering the comparable sales on this record, the Board finds the appellant did not demonstrate that a reduction in the subject's land assessment based on overvaluation is warranted.

In summary, the Board finds the record evidence does not warrant a land assessment reduction on either grounds of lack of uniformity and/or overvaluation.

⁶ While the Board recognizes that board of review equity comparables #20 and #21 also had sales data reported, the presentation by the board of review did not indicate that these were presented to support the subject's market value. The Board takes notice that the sales reflect values of \$26,894 and \$61,915 per acre of land area, including improvements.

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: July 19, 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.