



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

APPELLANT: Lumajo-Bolingbrook LLC
DOCKET NO.: 11-00195.001-C-2
PARCEL NO.: 12-02-08-301-021-0000

The parties of record before the Property Tax Appeal Board are Lumajo-Bolingbrook LLC, the appellant, by attorney Edmund P. Boland of Carey, Filter, White & Boland, Chicago; and the Will County Board of Review.

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

**LAND: \$150,000
IMPR: \$173,798
TOTAL: \$323,798**

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a one-story restaurant of masonry exterior construction. The structure contains 6,225 square feet of building area. The building was constructed in 2007. The subject's site has 54,963 square feet of land area

with a land to building ratio of 8.82:1. The subject property is located in DuPage Township, Will County, Illinois.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal¹. In support of this argument, the appellant submitted an appraisal of the subject property. The appraiser, Michael T. Gilligan, was present at the hearing and provided testimony in connection with the appraisal report. Gilligan was qualified and accepted as an expert witness without objection. The appraiser developed the three traditional approaches to value in arriving at the final value conclusion of \$975,000 as of January 1, 2011. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$622,500. The subject's assessment reflects a market value of \$1,874,435 including land when applying the 2011 three-year average median level of assessment for Will County of 33.21% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a document labeled "ASSESSOR RECOMMENDATION FOR STIPULATION". The document assigns an assessment for the subject property of \$622,500, which reflects an estimated market value of approximately \$1,867,500. The assessment agreement was signed by the DuPage Township Assessor, the appellant's legal counsel Edmund P. Boland, and an attorney for an unknown taxing district (intervenor). The signatures of the Will County Board of Review Members did not appear on the document. As detailed in the appellant's evidence, on January 18, 2012, the Will County Board of Review issued a final decision pertaining to the subject property lowering the assessment to \$622,500. The reason listed on the board of review's final decision was "Stipulation agreement between the Supervisor of Assessments/Township Assessor and Appellant."

The board of review called Edmund P. Boland as an adverse witness. Boland objected being called as a witness due to no prior indication he would be called. The Board hereby overrules the objection.

¹ Due to the similarity of the arguments and factual evidence, at the commencement of the hearing, the parties stipulated to incorporate the testimony of the appellant's appraiser and legal counsel as provided at the hearing under Property Tax appeal Board Docket Number 11-00228.001-C-1.

Boland testified he recognized the document (ASSESSOR RECOMMENDATION FOR STIPULATION). He could not answer whether the document was presented to the board of review without making an assumption. Boland agreed the document bears his signature dated December 1, 2012. Boland objected to characterizing the ASSESSOR RECOMMENDATION FOR STIPULATION as a legal document. Boland agreed the document identified the subject parcel for the 2011 tax year. Boland testified the document bears his signature and agrees to a total assessment for the subject property of \$622,500 before the Will County Board of Review. Boland contends that document did not waive any right for the appellant to further appeal the stipulated assessment to the Property Tax Appeal Board from the decision issued by the Will County Board of Review.

Based on the agreement between the township assessor and taxpayer, the board of review requested the Property Tax Appeal Board sustain the subject's 2011 assessment at \$622,500.

Conclusion of Law

The appellant 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. 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the only evidence of market value contained in this record is the appraisal submitted by the appellant estimating the subject property had a market value of \$975,000 as of January 1, 2011. The subject's assessment reflects a market value of \$1,874,435, which is above the only evidence of market value contained in the record. The Board further finds it troublesome that the taxpayer in this appeal, through counsel, entered into an agreement with the township assessor to lower the subject's assessment to \$622,500, which was ultimately approved by the Will County Board of Review. Nevertheless, the appellant further appealed said reduced assessment to the Property Tax Appeal Board. However, the Board finds the Will County Board of Review issued a final decision, in accordance with the agreement, which granted the taxpayer the right to further appeal and conferred jurisdiction to the Property Tax Appeal Board. In conclusion, the Board finds the subject

property had a market value of \$975,000 as of the assessment date at issue. Since market value has been established the 2011 three-year average median level of assessments for Will County of 33.21% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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

Tracy 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: July 18, 2014

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.