



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

APPELLANT: Frank Scarpelli/Unimproved Besinger Properties LLC
DOCKET NO.: 11-01926.001-C-2
PARCEL NO.: 03-02-400-015

The parties of record before the Property Tax Appeal Board are Frank Scarpelli/Unimproved Besinger Properties LLC, the appellant; the Kane County Board of Review; and Community Unit School Dist. #300, intervenor, by attorney Scott E. Nemanich of Hinshaw & Culbertson LLP in Lisle.

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

LAND: \$242,300
IMPR.: \$0
TOTAL: \$242,300

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane 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 vacant parcel with 568,022 square feet of land area located along the west side of Route 25 in Carpentersville, Dundee Township, Kane County.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant submitted information on three equity comparables that ranged in size from 54,450 to 1,120,799 square feet of land area. The comparables were described as being located along Route 25 and had land assessments ranging from \$13,072 to \$426,704 or from \$.24 to \$.38 per square foot of land area. Included with the appellant's submission was a narrative explaining that the subject parcel was a by-product of a 2002 sale to a developer who found too many issues as the entire overall parcel was mined for gravel and stone. The appellant also asserted the southern 200 feet of the parcel has been identified as a right-of-way (ROW) for the Long-Meadow Parkway Corridor. The document indicates Carpentersville would prevent the property owner from developing this area as a condition of zoning, which in turn has made the marketing of the parcel extremely difficult.

The narrative further explained that the balance of the property was used as the flume pond for a gravel operation and has 25 to 30 feet of silt and dirt from washing gravel. The narrative contends remediation in the area would be astronomical. The text also states there are no sewer and water improvements on the parcel. The document further stated the three comparables used in the equity analysis are shovel ready pieces of property. The document indicated that the assessment request was based on removing 147,000 square feet for the ROW (bridge area) and using a 60% discount from the average per square foot assessment of the comparables for the site conditions.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$242,300 or \$.43 per square foot of land area.

In rebuttal the board of review asserted that appellant's comparable #1 was larger than the subject but had an inferior configuration and its frontage on Route 25 is far inferior to the subject property. It also asserted that appellant's comparable #2 is much smaller than the subject and it lacks frontage on a public street. The board of review also asserted that comparable #3 is smaller and located on the east side of Route 25 with less surrounding and supporting commercial properties. It further noted that the appellant and the assessor had reached a stipulation reducing the assessment to \$242,300, which the board of review viewed as just. A copy of the stipulation for the 2011 tax year was submitted by the board of review and stated in part that:

5. If the Board of Review rules that this stipulated assessment is just, the Complainant and the Township Assessor waive any right to an appearance before the Board of Review **as well as waive any right to appeal the decision to the Illinois Property Tax Appeal Board or Courts for the property tax year covered by this stipulation.** . . . (Emphasis added.)

In support of its contention of the correct assessment the board of review submitted information on two equity comparables that were improved with shopping centers located along Route 25. Comparable #1 had 424,710 square feet of land area with a land assessment of \$457,513 or \$1.08 per square foot of land area. Comparable #2 had 314,503 square feet of land area with a land assessment of \$352,612 or \$1.12 per square foot of land area.

The board of review requested the assessment be confirmed.

The intervenor submitted no evidence but adopted the evidence submitted by the board of review.

In rebuttal, the appellant submitted a copy of a decision issued by the Property Tax Appeal Board in Docket No. 11-01928.001-R-1 for a smaller vacant parcel located in the same general vicinity.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be appellant's comparables #1 and #2 as well as the board of review comparables. These comparables had sites most similar to the subject in size. The Board also recognizes that the comparables

submitted by the board of review are improved with shopping centers. These comparables had land assessments that ranged from \$.38 to \$1.12 per square foot of land area. The subject's land assessment of \$.49 per square foot of land area is within this range.

Although the appellant submitted assertions that the subject property is impacted by a ROW as well as silt and dirt left from a gravel operation, no objective market data was submitted to establish that the subject's assessment was not reflective of the property's market value considering these factors. The appellant, in light of these purported detriments, did not include 147,000 square feet of land area for the purported ROW in calculating the subject's land assessment and made a 60% deduction to the average per square foot assessment of his comparables to account for the site conditions. The Board finds there was no objective market derived evidence in this record to support these adjustments.

The Property Tax Appeal Board also finds the record disclosed that the appellant had reached a settlement agreement with the township assessor to establish a land assessment of \$242,300 for the 2011 tax year. As part of the agreement the appellant agreed to waive any right to appeal the decision of the board of review based on this stipulated assessment to the Illinois Property Tax Appeal Board. Nevertheless, the appellant filed an appeal to the Property Tax Appeal Board following the issuance of the decision of the board of review revising the assessment to the stipulated amount. Without considering validity of the agreement, the Board finds the appellant's disregard for the settlement agreement he signed detracts from the veracity and credibility of his argument before this Board. Moreover, the Board finds the board of review did not pursue dismissal before filing its Board of Review Notes on Appeal as provided by section 1910.40(b) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(b)).

Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land was inequitably assessed and a reduction in the subject's assessment is not 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: November 21, 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.