



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

APPELLANT: Mark C. Jury
DOCKET NO.: 11-04058.001-C-1 through 11-04058.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Mark C. Jury, the appellant; and the Mason County Board of Review by attorney Christopher E. Sherer of Giffin, Winning, Cohen & Bodewes, PC, as Special Assistant State's Attorney through the Office of the State's Attorneys Appellate Prosecutor.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
11-04058.001-C-1	05-30-300-003-0030	2,153	0	\$2,153
11-04058.002-C-1	05-31-100-001-0030	790	0	\$790
11-04058.003-C-1	04-25-400-001-0020	5,400	0	\$5,400
11-04058.004-C-1	04-36-200-001-0020	5,520	0	\$5,520

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Mason 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 matter of this appeal consists of four vacant parcels of land. The parcels contain 21.53 acres (subject parcel #1), 7.9 acres (subject parcel #2), 45 acres (subject parcel #3) and 46 acres (subject #4), respectively. Subject parcels 1, 3 and 4 have river frontage and/or are comprised of some island land. Additionally, subject parcels #1, #3 and #4 have land submerged land under the river. Subject parcel #2 is slightly inland and does not have any river frontage. The subject properties are located in Havana Township, Mason County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming assessment inequity with respect to the subject parcels' land assessments. To demonstrate that each of the subject parcels were not uniformly assessed, the appellant submitted property record cards, aerial photographs and assessment information for three suggested comparables. Comparable #1 is located five miles from the subject parcels and has some river frontage with a peninsula that extends into the river. Comparable #2 has some river frontage and is located adjacent and to the south of subject parcel #4 (04-36-200-001-0020). Comparable #3 has some river frontage and is located five miles from the subject parcels. The comparables contain from 3.14 to 45.06 acres of land area and have land assessments ranging from \$40 to \$5,376 or from \$12.74 to \$123.18 per acre of land area.

The subject parcels have land assessments ranging from \$790 to \$5,520 or from \$100 to \$120 per acre of land area.

The appellant argued that the subject parcels are located in a flood plain which should have an impact on their market value. In addition, the appellant argued some of the parcels contain land that is under water. The appellant argued the comparables are similarly located in a flood plain and are located along the river. With respect to parcel #3 (04-25-400-001-0020), the appellant explained that 37 acres are under water, 7 acres are comprised of an island in the river and only 1 acre is above the water line along the bank of the river. With respect to parcel #4 (05-30-300-003-0030), the appellant explained that 24 acres are under water, 14 acres are comprised of an island in the river and 8 acres are above the water line along the bank of the river.

Under cross-examination, the appellant explained the island land is used for nothing, although some persons use the land for hunting without permission. The appellant testified there are

three Indian burial mounds located on parcels 05-31-100-001-0030 and 04-36-200-001-0020. One burial mound had been excavated by the University of Illinois, leaving one burial mound on each parcel. The appellant estimated each burial mound encompasses approximately one-acre of land area. The appellant testified he discussed the existence of the burial mounds with Mason County Assessment Officials. The appellant testified he acquired all four subject parcels in 2009 for \$70,000, including the islands and the land under water. The appellant testified he had hoped to develop the parcels in the future. The appellant testified there had been plans to build an ethanol plant or various tourist attractions near the subject parcels, thus, he purchased the land on speculation. The appellant testified he listed the properties for sale at \$1,900,000 which included an air permit for pollution emissions. The price was subsequently reduced to \$300,000. The appellant testified he received no offers to purchase.

The appellant testified comparable 1 has trees and is surrounded by water. Comparable 2 adjoins one of the subject parcels, but did not know its use. The appellant did not know the use of comparable 3, but thought it was covered with brush and trees.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the land assessments for the subject parcels of \$2,153 (05-30-300-003-0030, parcel #1), \$790 (05-31-100-001-0030, parcel #2), \$5,400 (04-25-400-001-0020, parcel #3) and \$5,520 (04-36-200-001-0020, parcel #4). In support of its assessments, the board of review submitted property record cards, aerial photographs and an assessment analysis of three or four comparables for each parcel under appeal. The evidence was prepared by Kristi Poler, Chief County Assessment Officer for Mason County. After qualification, the Board accepted Poler as an expert witness.

With respect to the evidence submitted by the appellant, Poler testified appellant's comparables #1 and #3 are similar to subject parcels 3 (04-25-400-001-0020) and 4 (04-36-200-001-0020) due to their non-farm and non residential use codes. Poler testified appellant's comparable #2 had historically received a preferential farmland classification and assessment, but she could not recall what, if any, what type of farmland it was used. Poler testified subject parcels 1 (05-30-300-003-0020) and 2 (05-31-100-001-0030) are classified and assessed as unimproved residential land. Poler testified the land is uniformly assessed based on its classification.

Docket Number 11-04058.001-C-1 (05-30-300-003-0030)

Comparable #1 is located one mile from the subject parcel and has some river frontage. Comparable #2 is located ½ of a mile from the subject and does not have river frontage. Comparable #3 is located 1 mile from the subject and does not have any river frontage. The comparables contain from 2 to 10 acres of land area and have land assessments ranging from \$1,052 to \$2,013 or from \$105.20 to \$582.50 per acre of land area. The subject parcel has a land assessment of \$2,153 or \$100 per acre.

Docket Number 11-04058.002-C-1 (05-31-100-001-0030)

Comparable #1 is located one mile from the subject parcel and has some river frontage. Comparable #2 is located ½ of a mile from the subject and does not have river frontage. Comparable #3 is located 1 mile from the subject and does not have any river frontage. The comparables contain from 2 to 10 acres of land area and have land assessments ranging from \$1,052 to \$2,013 or from \$105.20 to \$582.50 per acre of land area. The subject parcel has a land assessment of \$790 or \$100 per acre.

Docket Number 11-04058.003-C-1 (04-25-400-001-0020)

Comparable #1 is located three miles from the subject parcel and has some river frontage. Comparable #2 is located three miles from the subject parcel and has water frontage. Comparable #3 is located 3 miles from the subject parcel and has water frontage. Comparable #4 is located three miles from the subject and is a peninsula with river and lake frontage. The comparables contain from 23 to 77 acres of land area and have land assessments ranging from \$3,185 to \$10,657 or from \$127.74 to \$138.47 per acre of land area. The subject parcel has a land assessment of \$5,400 or \$120 per acre of land area.

Docket Number 11-04058.004-C-1 (04-36-200-001-0020)

Comparable #1 is located three miles from the subject parcel and has some river frontage. Comparable #2 is located three miles from the subject parcel and has water frontage. Comparable #3 is located 3 miles from the subject parcel and has water frontage. Comparable #4 is located three miles front the subject and is a peninsula with river and lake frontage. The comparables contain from 23 to 77 acres of land area and have land assessments ranging from \$3,185 to \$10,657 or from \$127.74 to \$138.47 per acre of land area. The subject parcel has a land assessment of \$5,520 or \$120.00 per acre of land area.

Under cross-examination with respect to subject parcels #1 (05-30-300-003-0030) and #2 (05-31-100-001-0030), Poler agreed board of review comparables #2 and #3 are not located along the river or any waterway. With respect to subject parcels #3 (04-25-400-001-0020) and #4 (04-36-200-001-0020), the location of the comparables in relation to the subject was discussed.

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). Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). 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 failed to overcome this burden of proof and no reduction in the subject parcels' land assessments are warranted.

With regard to the land under water and the island land, the appellant contends the acreage should be valued at a lesser rate of value than the dry ground. The Board finds the appellant's submitted no evidence to support this assertion or any evidence that clearly shows the acreage under water decreases the subject parcels' market value. In Lake County Board of Review v. Property Tax Appeal Board, 91 Ill.App.3d 117, 414 N.E.2d 173, (2nd Dist. 1980) property owners argued underwater property had no value for tax assessment purposes due to a clause in the deed. The court held that "[A]ll property in Illinois is subject to taxation unless specifically exempted." Additionally, the court held that "Land" has been defined as meaning "not only the soil or earth but also things of a permanent nature affixed thereto or found thereon, [such] as water . . ." (Black's law Dictionary 1019 (4th ed. 1968)), and it has been held to include lakes, streams, and submerged property. Slayton Gun Club v. Town of Shetek, Murray County 286 Minn. 461, 176 N.W.2d 544 (1970). All real Property in Illinois is assessed according to its "fair cash value", which has been held to mean "what a property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to

buy but not forced so to do." Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 430, 256, N.E. 2d 3334, 336 (1970). Furthermore, Section 9-145(a) of the Property Tax Code provides that for the purposes of taxation, [e]ach lot or tract of property shall be valued at 33 1/3% of its fair cash value. (35 ILCS 200/9-145(a)). Based on the aforementioned case law and statutes, the Board finds the acreage located on the subject parcels that is under the river is assessable. Moreover, the Board finds the appellant purchased the subject parcels, including the land under water, for \$70,000. The subject parcels' combined assessments reflect a market value of approximately \$41,590, considerably less than the subject parcels' sale price.

PTAB EQUITY ANALYSIS

Docket Number 11-04058.001-C-1 (05-30-300-003-0030)

The parties submitted six suggested comparables for the Board's consideration. The Board gave less weight to appellant's comparable #2. This suggested comparable receives a preferential farmland assessment, unlike the subject parcel. Farmland assessments in Illinois are based upon soil productivity indices rather than market value considerations. The Board also gave less weight to the comparables submitted by the board of review. All of these comparables were considerably smaller than the subject parcel. Furthermore, comparables #2 and #3 are inland parcels and do not have any direct water influence, unlike the subject parcel. The Board finds comparables #1 and #3 submitted by the appellant were most similar when compared to the subject in location, size and water influence. They have land assessments of \$2,439 and \$5,376 or \$123.18 and \$119.31 per acre of land area, respectively. The Board finds the subject parcel's land assessment of \$2,159 or \$100.23 per acre of land area is supported by the two most similar comparables contained in the record.

Docket Number 11-04058.002-C-1 (05-31-100-001-0030)

The parties submitted six suggested comparables for the Board's consideration. The Board gave less weight to the comparables submitted by the appellant. Comparable #2 receives a preferential farmland assessment, unlike the subject parcel. Farmland assessments in Illinois are based upon soil productivity indices rather than market value considerations. Appellant's comparables #1 and #3 are larger in size and have direct river frontage water influence, unlike the subject's

inland location. The Board also gave less weight to comparable #1 submitted by the board of review. This comparable has direct river frontage, unlike the subject's inland location. The Board finds comparables #2 and #3 submitted by the board of review were most similar when compared to the subject in location and size. They have land assessments of \$2,013 and \$1,052 or \$447.33 and \$105.20 per acre of land area. The Board finds the subject parcel's land assessment of \$790 or \$100.00 per acre of land area is supported.

Docket Number 11-04058.003-C-1 (04-25-400-001-0020)

The parties submitted seven suggested comparables for the Board's consideration. The Board gave less weight to appellant's comparables #1 and #2. Comparable #1 is smaller in size when compared to the subject. Comparable #2 receives a preferential farmland assessment, unlike the subject parcel. Farmland assessments in Illinois are based upon soil productivity indices rather than market value considerations. The Board also gave less weight to the comparable #2 and #4 submitted by the board of review due to their smaller or larger land sizes when compared to the subject. The Board finds comparables #3 submitted by the appellant and comparables #1 and #3 submitted by the board of review were most similar when compared to the subject in location, size and water influence. They have land assessments ranging from \$5,376 to \$6,370 or from \$119.31 to \$138.48 per acre of land area. The Board finds the subject parcel's land assessment of \$5,400 or \$120 per acre of land area is supported by the most similar comparables contained in the record.

Docket Number 11-04058.004-C-1 (04-36-200-001-0020)

The parties submitted seven suggested comparables for the Board's consideration. The Board gave less weight to appellant's comparables #1 and #2. Comparable #1 is smaller in size when compared to the subject. Comparable #2 receives a preferential farmland assessment, unlike the subject parcel. Farmland assessments in Illinois are based upon soil productivity indices rather than market value considerations. The Board also gave less weight to the comparables #2 and #4 submitted by the board of review due to their smaller or larger land sizes when compared to the subject. The Board finds comparable #3 submitted by the appellant and comparables #1 and #3 submitted by the board of review were most similar when compared to the subject in location, size and water influence. They have land assessments ranging from \$5,376 to \$6,370 or from

\$119.31 to \$138.48 per acre of land area. The Board finds the subject parcel's land assessment of \$5,520 or \$120 per acre of land area is supported by the most similar comparables contained in the record.

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 properties located in the same geographic area and assessment jurisdiction are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist based on the evidence submitted. Therefore, the Board finds the appellant failed to demonstrate the subject parcels were inequitably assessed by clear and convincing evidence.

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.



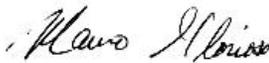
Chairman



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: July 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.