



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

APPELLANT: Phillip Moll
DOCKET NO.: 12-01409.001-R-1
PARCEL NO.: 13-27-200-027

The parties of record before the Property Tax Appeal Board are Phillip Moll, the appellant, and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$76,966
IMPR.: \$240,636
TOTAL: \$317,602

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Lake County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2012 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 property¹ consists of a two-story dwelling of frame construction with 7,577 square feet of living area. The dwelling was constructed in 1954 with an addition/update in

¹ The description of the subject property is taken solely from the appellant's Residential Appeal petition. The board of review provided no descriptive data of the property and did not submit a copy of the subject's property record card as required by the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a))

1993. Features of the home include a partial basement, central air conditioning, two fireplaces and an attached three-car garage that contains 1,440 square feet of building area. The property is also improved with an in-ground pool and a poolhouse. The property has a 5.4-acre site of which 18,295 square feet has a purported public easement. The subject is located in Barrington, Cuba Township, Lake County.

The appellant contends assessment inequity and contention of law as the bases of the appeal. In support of these arguments, the appellant submitted a five-page single-spaced brief and four grid analyses marked Exhibits A, B, C and D. Among the other documents submitted were a purported copy of a plat of survey, six photographs with descriptive information, a schematic drawing, a property record card with a date of July 11, 1959 and an improvement calculation document dated November 23, 2005.

In the brief, the appellant contends the improvement assessment of the subject property is in error because the subject dwelling has an older section of approximately 2,204 square feet than comparable properties (i.e., incorrect effective age) and the assessing officials have utilized an incorrect dwelling size for the subject home of 7,775 square feet. The subject's improvement assessment per square foot is higher than the comparable dwellings depicted in Exhibits A and B. As a result, the appellant seeks an average improvement assessment of \$28.17 per square foot for the subject based on two of his comparable properties.

In addition, the appellant contends that the subject's land assessment is erroneous because it does not reflect the depreciation for a public easement which the appellant is entitled to under the Constitution and Property Tax Code. The appellant contends that the survey depicts that the subject property is encumbered by the public easement of Cuba Road and this easement accounts of 18,295 square feet of the subject parcel. The appellant argues that as such land is solely public grounds controlled and maintained by the Cuba Township Road Commission, this land should be depreciated in value because the appellant does not have true ownership or useage of that portion of land. Citing Ill. Const. 1970, Art. IX, §4(c); 35 ILCS 200/9-145(e); Will County Board of Review v. Property Tax Appeal Board, 48 Ill. 2d 513 (1971). Based on the Will County case, the appellant contends the easement portion of the subject parcel is entitled to a 20% or even a maximum 50% reduction in value. Although the comparable parcels the appellant presented in Exhibit C have the same land assessment per-square-foot as

the subject, the appellant contends those parcels do not have a public easement like the subject. Additionally, the appellant cited to Exhibit D consisting of a 10-acre comparable in the "much more prestigious neighborhood of Barrington Hills" that is assessed at \$0.12 per square foot of land area as compared to the subject's 5.4-acre land assessment of \$0.33 per square foot of land area. Based upon the foregoing arguments concerning the subject's land assessment, the appellant seeks an assessment of the land constituting the public easement of \$0.17 per square foot of land area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$341,190. The subject property has a land assessment of \$76,966 or \$0.32 per square foot of land area and an improvement assessment of \$264,224 or \$34.87 per square foot of living area based upon the appellant's stated dwelling size of 7,577 square feet of living area. In support of its contention of the correct assessment, the board of review submitted a four-page brief. The board of review provided no equity comparables to support the assessment of the subject land and/or improvement.

In the memorandum the board of review contends in part that the appellant has the burden of going forward before the Property Tax Appeal Board with substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. (86 Ill.Admin.Code §1910.63(b)). Next, the memorandum addressed the reassessment of properties in 2004 and 2005 utilizing a new mass appraisal computer system. Based on this argument and applicable statutory and administrative code provisions, the board of review requested confirmation of the subject's assessment.

The appellant submitted a five-page single-spaced written rebuttal. The rebuttal reiterates that the recorded dwelling size of the subject home is not correct in the assessor's records. Furthermore, the appellant noted that the board of review submitted no equity comparables to dispute the appellant's evidence of inequity and/or recorded dwelling size of the subject home by the assessing officials as 7,775 square feet.

As to the subject's land assessment, the appellant reiterates the assertion that the subject parcel is subject to a public easement and therefore has been unlawfully assessed and results in a gross disparity in assessment.

After the close of evidence in this matter, on December 16, 2014 the appellant postmarked his Motion to Adopt PTAB's Rationale of Assessment. In the motion, the appellant requests that the "rationale of assessment in Docket 10-0389 [sic]"² be incorporated in the pending 2012 and 2013 tax year appeals. Based upon the same analysis, the appellant seeks to have the subject's 2012 improvement assessment reduced to \$240,636 or \$30.95 per square foot of living area based upon a dwelling size of 7,775 square feet of living area.

Conclusion of Law

As to the appellant's pending motion, "[a]ll appeals shall be considered de novo." 35 ILCS 200/6-180. Furthermore, in accordance with the Property Tax Code, the decision of the Property Tax Appeal Board shall be "based upon equity and the weight of evidence." 35 ILCS 200/16-185. Thus, the Property Tax Appeal Board denies the appellant's motion and will weigh the evidence of record in determining the correct assessment of the subject property for this pending 2012 assessment appeal.

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).

As to the appellant's land inequity argument, the appellant disputes the assessment of a portion of the subject parcel, namely, 18,295 square feet of land area, that purportedly have an easement. The appellant cited to Will County Board of Review v. Property Tax Appeal Board, 48 Ill. 2d 513 (1971) for the proposition that the land subjected to a public navigation easement should be reduced by approximately 20% in value. In the Will County case, regarding five parcels of unimproved real property that varied in size from 7.12 to 115.40 acres of land area, the court stated:

They consist largely of property constituting the bed of the Des Plaines River. Four of the parcels are 95%

² The appellant attached one page of the Board's decision in his prior 2010 tax year appeal known as Docket No. 10-02389.001-R-1.

Under water; all five are subject to a public easement for navigation, and the disputed 1967 assessed valuations of the five ranged from \$500 to \$2000 per acre. The Appeal Board reduced these valuations to \$100 per acre.

Id. at 517-518. Moreover, the court further found that adjacent unimproved parcels, including property used for farming and other more economically valuable purposes, had 1967 assessed valuations ranging from \$43 to \$1650 per acre. Thus, based on evidence of disparate assessments, the court found that reductions were warranted in the assessments of those five unimproved parcels that were the subject matter of the Will County case appeal. The Property Tax Appeal Board finds the facts in the Will County case to be distinctly different from the appellant's appeal in this matter.

In contrast, the appellant in this appeal before the Property Tax Appeal Board provided no current market value evidence and no equity evidence of comparable parcels which have an easement like the subject property, but yet display a lower land assessment than the subject property. In Exhibits C and D, the appellant provided data concerning four parcels that contain either 217,800 square feet of land area or 438,649 square feet of land area. The appellant reported the subject parcel contains 5.4-acres of land area or 235,224 square feet of land area. The comparables with 217,800 square feet of land area have land assessments of \$0.33 per square foot of land area. Exhibit D displaying the larger comparable of 10.07-acres of land area has a land assessment of \$0.12 per square foot of land area. The appellant reported the subject has a land assessment of \$0.33 per square foot of land area, despite its easement.

The Property Tax Appeal Board finds in the Will County case, many of the parcels on appeal carried higher values than surrounding parcels and thus the property on appeal was found to be inequitably assessed, particularly given that the property was 95% underwater.

The only evidence of assessment inequity in this record are the appellant's comparables. The Board has given little weight to the comparable displayed in Exhibit D as this parcel is approximately twice the size of the subject parcel. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. Thus, the Board finds the

comparable in Exhibit D is not a suitable comparison property to the subject given its substantially larger land area than the subject.

Each of the remaining land assessment comparables has a land assessment of \$0.33 per square foot of land area. The subject's land assessment of \$0.33 per square foot of land area is identical to the most similar comparables in this record. As to the land inequity argument, the Board finds that the appellant has failed to establish assessment inequity by clear and convincing evidence. 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. In this matter, the Board finds that the only parcels submitted for consideration carry identical land assessments to that of the subject property of \$0.33 per square foot of land area. Furthermore, the appellant presented no market data establishing that the subject property suffered any depreciation in value as a result of the purported public easement. As such, the Board finds that no change in the subject's land assessment is warranted on this record.

As to the improvement assessment inequity argument, the appellant provided a total of six comparables set forth on Exhibits A and B. The Board finds the only evidence in the record of assessment equity to be the appellant's comparables. These comparables had varying degrees of similarity to the subject in location, age, design, exterior construction and/or dwelling size. The data provided by the appellant in the grid analysis is somewhat limited; the information did not include foundation (i.e., basement), fireplace, other improvements (i.e., pools and/or poolhouses) and/or features of these comparable properties.

Despite the deficiencies in the comparable data, the Board finds that the six comparables presented by the appellant had improvement assessments that ranged from \$25.39 to \$34.42 per

square foot of living area. The subject's improvement assessment of \$34.87 per square foot of living area, based on a dwelling size of 7,577 square feet of living area, falls above the range established by the only comparables in this record.

Based on this limited record, the Board finds the appellant did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's improvement assessment commensurate with his request in his motion filed on December 16, 2014 is warranted.

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.

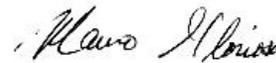
Chairman



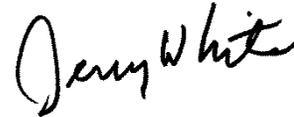
Member



Member



Member



Acting 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: June 26, 2015



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.