



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

APPELLANT: Theodore Carlson
DOCKET NO.: 11-02131.001-R-1 through 11-02131.003-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Theodore Carlson, the appellant, by attorney Mark P. Doherty of The Doherty Law Firm in DeKalb; and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

FAIR CASH VALUE ASSESSMENT

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|------------------|---------------|--------|---------|-----------|
| 11-02131.001-R-1 | 07-06-100-016 | 12,738 | 0 | \$12,738 |
| 11-02131.002-R-1 | 04-31-300-007 | 65,955 | 0 | \$65,955 |
| 11-02131.003-R-1 | 04-31-300-008 | 30,200 | 152,959 | \$183,159 |

ALTERNATIVE VALUE FOR CONSERVATION STEWARDSHIP¹

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|------------------|---------------|-------|---------|---------|
| 11-02131.001-R-1 | 07-06-100-016 | 761 | 0 | \$761 |
| 11-02131.002-R-1 | 04-31-300-007 | 9,894 | 0 | \$9,894 |

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.

¹ PIN 04-31-300-008 is not enrolled in the conservation stewardship program.

Findings of Fact

The subject property consists of 9.62 acres composed of three parcels with 2.51 acres, 5.96 acres and 1.15 acres, respectively. The 2.51 acre tract identified by parcel number (PIN) 07-06-100-016 (hereinafter "016") is classified as conservation stewardship and is located in Virgil Township. The 5.96 acre tract identified by PIN 04-31-300-007 (hereinafter "007") is classified as conservation stewardship and is located in Burlington Township. The 1.15 acre tract identified by PIN 04-31-300-008 (hereinafter "008") is improved with a one-story dwelling of brick and stone construction with 4,327 square feet of living area. The dwelling was constructed in 2005. Features of the home include a full basement, central air conditioning, a fireplace and a 1,753 square foot attached garage. This PIN is classified as improved residential and is located in Maple Park, Burlington Township, Kane County.

The appellant appeared with counsel before the Property Tax Appeal Board contending overvaluation, a contention of law and assessment inequity as the bases of the appeal. In support of these arguments the appellant submitted a Restricted Appraisal Report of the subject property prepared by Joanne Johnson, a State Certified Residential Real Estate Appraiser. Johnson was present at the hearing. Johnson estimated the entire subject property had a market value of \$500,500 as of January 1, 2011. The appellant also submitted assessed valuations for the subject property dating back to 2000; an additional 37 sales with photographs; exterior photographs of the subject; a plat of the subject property; a letter from Kane County Development & Community Services Department; and assessment information on ten farm parcels with buildings. The appellant failed to complete Section IV of the residential appeal petition.

Johnson was called as the first witness. Johnson testified that she used a "restricted use appraisal just to save money because this gentleman has overpaid on his assessment for so many years so it was the best I could due for the least amount of outlay on his part". Johnson testified that PIN 007 is a watershed for the surrounding agricultural property and PIN 016 is surplus land. Johnson testified that both PINs are landlocked and not buildable per building and zoning and have little value. Johnson testified that the home has a gravel driveway and no landscaping. Johnson testified she searched the Multiple Listing Service for comparable sales to estimate the subject's market value. Johnson testified that the Property Tax Appeal

Board had issued favorable decisions for the years 2009 and 2010 and those decisions were not carried forward.

Under cross-examination Johnson testified that there were no vacant land sales. Johnson testified the land value was based on a fractional farmland value and used the Department of Revenue's productivity indices. Johnson testified that this was a Restricted Use Appraisal and the comparable sales and adjustments for differences are contained in a work file. This documentation was not submitted to the Property Tax Appeal Board. Johnson testified that there was no cost approach to value or income approach to value included in the appraisal in order to save money.

Under cross-examination by the Administrative Law Judge, Johnson testified that the additional 37 comparables submitted were not the sales used in the appraisal. Johnson stated that these were an illustration of a range of sales from low end to high end. Johnson testified that she did not know the location of the sales in relation to the subject property. Johnson testified that the sales were not as large in dwelling size as the subject dwelling.

Theodore Carlson, the property owner, was called as a witness. Carlson testified that the Property Tax Appeal Board issued decisions reducing the assessments for tax years 2009 and 2010 and they were not carried forward by the assessor to 2011. Carlson testified that he is still working on the home. Carlson testified that the letter he sent to the Kane County Development & Community Services Department in February 2005 was to cover the minimum requirements to occupy the home.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment for PIN 016 of \$12,738, which reflects an estimated market value of \$38,333.² The total assessment for PIN 007 of \$65,955 reflects an estimated market value of \$198,480.³ The total assessment for PIN 008 of \$183,159 reflects an estimated market value of \$551,186 or \$127.38 per square foot of living area, including land, when using the 2011 three year average median level of assessments for Kane County of 33.23%. The improvement

² This parcel is receiving an alternate value of \$761 based on the preferential assessment provided under the conservation stewardship program. (35 ILCS 200/10-400 etal.)

³ This parcel is receiving an alternate value of \$9,894 based on the preferential assessment provided under the conservation stewardship program. (35 ILCS 200/10-400 etal.)

assessment for PIN 008 is \$152,959 or \$35.35 per square foot of living area and the land assessment is \$30,200 or \$26,261 per acre of land area.

Representing the board of review was Chairman Kevin Schulenburg. Schulenburg called Burlington Township Assessor, Debbie McKermitt, as a witness to testify regarding the evidence she prepared on behalf of the board of review.

McKermitt first explained the possibility of why prior Property Tax Appeal Board decisions were not carried forward to the 2011 tax year. McKermitt stated that sometimes it is the timing of when decisions are received or it could be based on the following year being a quadrennial reassessment year.⁴

In support of the subject's assessment the board of review submitted a grid analysis disclosing the alternate values (assessments) from the conservation stewardship program. The board of review also submitted correspondence pertaining to the "Restricted Appraisal Report" submitted by the appellant. The board of review also submitted the subject's property record card, assessor sales comparable report, assessor equity comparables report, correspondence from the appellant to the Director of Building & Community Services Division of Kane County regarding passing of final inspection dated February 14, 2005, and a letter from Burlington Township to the appellant's attorney requesting an interior inspection of the property and photographs.

The board of review submitted information on four comparable sales. The comparables were improved with one-story dwellings

⁴ Section 16-185 of the Property Tax Code provides in relevant part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, **shall remain in effect for the remainder of the general assessment period** (Emphasis Added) as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. (35 ILCS 200/16-185)

McKermitt testified that 2011 tax year was the beginning of a new quadrennial general assessment period for Kane County. Therefore, the Property Tax Appeal Board's prior years' decisions are not carried forward to the 2011 tax year.

of brick or brick and frame exterior construction that ranged in size from 2,082 to 3,477 square feet of living area. The dwellings were built from 1994 to 2005. Each comparable has a full basement, central air conditioning, a fireplace and an attached garage ranging in size from 702 to 1,017 square feet of building area. These properties sold from May 2008 to May 2010 for prices ranging \$470,000 to \$738,000 or from \$208.51 to \$274.55 per square foot of living area, including land. The subject property has a total assessment of \$261,852, which reflects a market value of \$787,999 or \$182.11 per square foot of living area, including land, when applying the 2011 three year average median level of assessments for Kane County of 33.23%. McKermitt testified that the comparables were older than the subject, but finding one-story homes close in square footage to the subject and of masonry construction in Burlington Township is very limited.

The board of review also submitted information on three equity comparables. McKermitt testified that the comparables were improved with one-story dwellings of brick or dryvit exterior construction and were built from 1992 to 1998. Each comparable has a full basement, central air conditioning, one or two fireplaces and an attached garage that range in size from 585 to 930 square feet of building area. The comparables also have detached garages that range in size from 221 to 1,288 square feet of building area. Comparable #1 has a 924 square foot in-ground swimming pool and a stable. The dwellings range in size from 4,207 to 4,636 square feet of living area and have improvement assessments that range from \$139,926 to \$168,726 or from \$31.66 to \$39.24 per square foot of living area. The sites range in size from 2.09 acres to 26.79 acres and have land assessments that range from \$54,473 to \$234,137 or from \$8,740 to \$26,129 per acre. Based on this evidence, the board of review requested confirmation of the subject's assessment

Under cross-examination, McKermitt testified that she supplied information to the board of review for the subject property's appeal and that she was not aware of any additional information the board of review submitted to the Property Tax Appeal Board. McKermitt testified that she used two comparables located in St. Charles, which is outside of Burlington Township. McKermitt testified that the two comparables located in St. Charles could be superior, but she had to look outside of Burlington Township for sales of properties similar to the subject in exterior construction and dwelling size. McKermitt testified that she sent a certified letter to the appellant in 2011 in an attempt to gain access to the subject property. McKermitt stated she

did not receive a response and concluded that she was denied access. McKermitt did not make any further attempt to gain access to the subject's interior.

Under cross-examination by the Administrative Law Judge, McKermitt testified that she did not supply the land sales used to value the subject property with the evidence that was sent to the board of review.

Schulenburg testified that all of the evidence submitted on behalf of the board of review to the Property Tax Appeal Board was obtained from the township assessor.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

In this appeal, the appellant submitted a Restricted Use Appraisal estimating the subject property had a market value of \$500,500 as of January 1, 2011. The appraisal witness relied on sales contained in a work file, which was not submitted to the Property Tax Appeal Board, in estimating the market value of the subject property. The board of review provided four comparable sales in support of the subject's assessment. After reviewing the data and considering the testimony, the Board finds the testimony of the appellant's appraiser was not credible or persuasive. The appraiser contends that the interior finish of the dwelling was not complete, the master bath was only roughed-in and there is no central air conditioning. The appraisal contained no adjustments for this purported obsolescence and no photographs were submitted to depict the unfinished home. The board of review submitted a letter to the Director of Building and Community Services Division signed by the property owner, Theodore J. Carlson stating "the interior of the home is complete with the exception of some trim work, which should not effect [sic] passing the final inspection", which is at odds with the appraiser's description. The second contention was PINs 007 and 016 was excess land due to the property being split

because of township boundaries and were unbuildable. However, neither the appellant nor the appraiser submitted land sales or other documentation showing that the land was over-valued. The appraisal contained a recap of Burlington Township sales from 2007 to 2011. The appraiser failed to complete a comparative analysis to show the differences in characteristics and the adjustment process when comparing sales to the subject property to arrive at a final value conclusion.⁵ These unsupported arguments undermined the value conclusion. Thus, the Board gave no weight to the appraisal submitted by the appellant.

The board of review submitted four comparable sales for the Board's consideration. The Board gave less weight to the board of review comparables #1 and #2. These sales occurred in May and June of 2008, which are dated and less indicative of fair market value as of the subject's January 1, 2011 assessment date. The Board finds the only credible evidence of market value to be the board of review comparable sales #3 and #4. These comparables sold for prices of \$650,000 and \$725,000 or \$208.51 and \$223.14 per square foot of living area, including land. These comparables were inferior to the subject in land area. The subject's parcels have an assessment that reflects a market value of \$787,999 or \$181.11 per square foot of living area, including land, which is less than the comparable sales in the record on a square foot basis. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified.

The taxpayer also argued 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 on this basis.

With respect to the improvement, the Board finds the best evidence of assessment equity to be the board of review comparables. The Board finds these comparables to be more similar in design, dwelling size and features. These

⁵ There was a list of 37 sales submitted with no descriptive information.

comparables had improvement assessments that ranged from \$31.66 to \$39.24 per square foot of living area. The subject's improvement assessment of \$35.35 per square foot of living area falls within the range established by the most similar comparables in this record. The Board gives little weight to the ten parcels submitted by the appellant for assessment equity. No comparative analysis was submitted to show the similarity and differences in characteristics of the equity comparables to the subject property. Section 1910.65(b) of the rules of the Property Tax Appeal Board provides that:

Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of the subject property and it is recommended that not less than three comparable properties be submitted. Documentation must be submitted showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property.

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

With respect to the land, the board of review submitted three land equity comparables for the Board's consideration. The Board finds the best evidence of land assessment equity to be board of review comparables #1 and #2. These comparables had land sizes of 2.09 and 2.77 acres with land assessments of \$19,665 and \$26,129 per acre of land area. PIN 008 contained 1.15 acres of land and an assessment of \$30,200 or \$26,261 per acre, which falls above the most similar comparables in this record. All three parcels had a combined land assessment of \$108,893 or \$11,319 per acre. Accepted real estate valuation theory provides, all other factors being equal, as the size of a property increases, its per unit value decreases. Likewise, as the size of a property decreases, its per unit value increases. Based on this analysis, the Board finds the subject's land assessment is well justified.

The Board gave less weight to the board of review land comparable #3 based on its considerably larger land size when compared to the subject. The Board gives little weight to the ten parcels submitted by the appellant for land assessment equity. The Board finds these parcels are all classified as

farm land with buildings, a different classification than PIN 008. Unlike the subject property, farmland assessments are based on their soil productivity indices with no market value consideration. (See 35 ILCS 200/10-125).

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

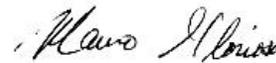
Chairman



Member



Member



Member



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.