



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

APPELLANT: Phillip Moll
DOCKET NO.: 11-02796.001-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 no change 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: \$76,446
IMPR.: \$264,224
TOTAL: \$340,670

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 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 is improved with a two-story dwelling of frame construction. Features include a poolhouse and an 800 square foot in-ground swimming pool. The subject parcel consists of 236,095 square feet of land area or 5.42-acres which is located in Barrington, Cuba Township, Lake County.

The appellant contends both assessment inequity and contention of law as the bases of the appeal. The appellant did not

dispute the assessment of the subject's improvements, but only contested the assessment of the subject parcel. (See Section 2c of Residential Appeal petition related to the appellant's requested assessment). In support of these arguments, the appellant submitted a two-page brief along with information on six equity comparables.

In the brief, the appellant first misstated the determinations of the Property Tax Appeal Board regarding the description(s) of the subject dwelling which were set forth in Docket No. 10-02389.001-R-2. The Board found that the subject property consists of a two-story dwelling of frame construction with 7,775 square feet of living area. The dwelling was constructed in 1957 with an addition completed in 1985. Features of the home include a partial unfinished basement, central air conditioning, two fireplaces and a 3-car garage. For this 2011 assessment appeal (Docket No. 11-02796.001-R-1), the appellant made no challenge to the improvement assessment of the subject property. Therefore, the Property Tax Appeal Board finds the appellant's arguments regarding dwelling size and/or effective age of the subject dwelling are irrelevant to a determination of this 2011 assessment appeal. As set forth in the Residential Appeal petition, the instant 2011 assessment appeal concerns solely the land assessment of the subject property.

As to the subject's land assessment, in the brief appellant quoted the following from the Illinois Constitution and the Property Tax Code:

Any depreciation in the value of real estate occasioned by a public easement may be deducted in assessing such property. Ill.Const. 1970 Art. IX, §4(c). In the assessment of property encumbered by public easement, any depreciation occasioned by such easement **shall** be deducted in the valuation of such property. 35 ILCS 200/9-145(e). [Emphasis in appellant's brief]

For further support to reduce the subject's assessment, the appellant cited to Will County Board of Review v. Property Tax Appeal Board, 48 Ill.2d 513, 519 (1971). As part of the memorandum, the appellant stated that a number of years ago, the Cuba Township Road Commission installed 16" drain pipes from one side of Cuba Road to the other and also lengthwise in the easements "which caused an increase of water flow across my property and many others." Within the memorandum, the appellant wrote that public easement consists of 18,295 square feet.

In light of the foregoing factual assertion, the appellant contends that both the Constitution and Property Tax Code "allow for a depreciated value for the loss of usage and the loss of control, and thus, the devaluing of such land for taxation purposes." In contrast, the appellant contends that the equity comparables he has presented do not have a public easement and therefore no similar loss of usage of land, but yet their assessments are similar to that of the subject parcel which does have this easement. All six equity comparables presented by the appellant have land assessments of \$0.32 per square foot of land area. The subject likewise has a land assessment of \$0.32 per square foot of land area. Mathematically the appellant contends the assessment of the subject's 18,295 square foot easement should be reduced by 20% or to an assessment for the easement of \$1,354 resulting in a total land assessment request of \$71,050 for the subject parcel.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$340,670. The subject parcel has a land assessment of \$76,446 or \$0.32 per square foot of land area. In support of its contention of the correct assessment, the board of review submitted a four-page 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 initial portion of the rebuttal again contends that the recorded dwelling size of the subject home is not correct in the assessor's records. As noted previously, however, the appellant has made no challenge to the assessment of the subject improvement as part of this appeal and therefore this purported size dispute is not relevant to a determination of the correct assessment of the subject property.

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.

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.

As noted above, 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% 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. Instead, the appellant cited to six equity comparables of similar land area to the subject parcel which each carry an identical land assessment of \$0.32 per square foot of land area and stated that the subject is worth less due to an easement. 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 Board finds the only evidence of assessment equity to be the appellant's comparables. Each of these six land assessment comparables has a land assessment of \$0.32 per square foot of land area. The subject's land assessment of \$0.32 per square foot of land area is identical to the 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 \$0.32 per square foot of land area. As a final point, to the extent the subject property is encumbered by a public easement created by the installation of drain pipe(s), the appellant presented no market data establishing that the subject property suffered any depreciation in value as a result. As such, the Board finds that no change in the subject's land assessment is warranted on this record.

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

K. L. Fen

Member

[Signature]

Member

Mark Albino

Member

Jerry White

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

[Signature]

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.