



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

APPELLANT: Leroy Oakes Properties, LLC
DOCKET NO.: 12-01613.001-C-1
PARCEL NO.: 09-29-425-024

The parties of record before the Property Tax Appeal Board are Leroy Oakes Properties, LLC, the appellant, by attorney John T. Wittenstrom, of the Law Office of John T. Wittenstrom, in St. Charles, 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:

LAND: \$70,121
IMPR.: \$0
TOTAL: \$70,121

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 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 property consists of 65,193 square feet of vacant land located in Leroy Oaks Professional Center in St. Charles, St. Charles Township, Kane County.

The appellant contends overvaluation, assessment inequity and contention of law as the bases of the appeal. In support of the overvaluation argument, the appellant submitted limited information on two comparable sales. The comparable parcels consist of 40.66 and 350-acres of land area, respectively, and sold in December 2009 and July 2011 for prices of \$19,011 and \$19,896 per acre of land.

In support of the inequity argument, the appellant submitted information on three equity comparables located in close proximity to the subject. The comparables range in size from 36,154 to 87,120 square feet of land area and have land assessments ranging from \$69,000 to \$149,500 or from \$1.71 to \$1.90 per square foot of land area. The appellant reported the average land assessment was \$1.82 per square foot of land area.

In support of the contention of law, counsel for the appellant presented a brief asserting that the subject property meets the requirements to receive a preferential assessment under either Section 10-30 or Section 10-31 of the Property Tax Code (35 ILCS 200/10-30 or 10-31). Counsel asserted that the subject property was platted a subdivided in accordance with the Plat Act, platting having occurred after January 1, 1978. The subject parcel was in excess of 5 acres and at the time of platting, the subject property was vacant and was residential homes prior to that according to counsel. Lastly, counsel asserted that no structures have been built upon the property.

Based on the foregoing evidence and argument by applying a market value of \$1.92 per square foot to the subject, the appellant therefore requested a total assessment of \$13,200.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$70,121. The subject's assessment reflects a market value of \$210,258 or \$3.23 per square foot of land area, when using the 2012 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum from Assistant State's Attorney Joseph F. Lulves asserting that the provisions of Section 10-31 of the Property Tax Code expired as of December 31, 2011 and thus is not applicable to this 2012 tax year appeal. In addition, Section 10-30 provides that this provision is not applicable as soon as any habitable structure is completed on such a subdivided lot. As shown in Exhibit C

attached to the memorandum, there are buildings standing on the subject parcel and therefore, counsel contends that the subject parcel is not entitled to a developer's preferential assessment for tax year 2012.¹

In further support of its contention of the correct assessment the board of review through the St. Charles Township Assessor's Office submitted a memorandum outlining the assessment of the subject parcel and addressing the appellant's equity evidence.

The township assessor contended that the appellant's comparables are zoned farmland and are located outside the city limits. As these comparables have a different highest and best use and are dissimilar to the subject, the appellant's equity argument has failed according to the assessor.

In addition, the township assessor provided three comparables that are similar to the subject in highest and best use. The comparables each have an assessment of \$3.40 per square foot of land area. As to the subject parcel, the township assessor reported that the subject parcel has approximately 44,565 square feet allocated to a detention pond which is assessed at \$10 and the remaining 20,628 square feet of land area has a fair cash value of \$10.20 per square foot or an assessment of \$3.40 per square foot of land area.

The assessor also provided five sales to support the market value of the subject of \$10.20 per square foot of land area. These parcels range in size from 34,980 to 105,764 square feet of land area. The five sales occurred between October 2011 and August 2013 for prices ranging from \$715,000 to \$2,070,000 or from \$9.33 to \$25.25 per square foot of land area.

Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellant contends in part that the subject property is entitled to a preferential assessment also referred to as "developer's relief." Section 10-30(a) of the Property Tax Code (35 ILCS 200/10-30(a)) provides in part:

¹ Additional documentation prepared by Mark D. Armstrong, CIAO, Clerk of Kane County Board of Review, and attached to counsel's memorandum actually indicated that there are condominium buildings on the subject parcel, however, the "condominium units" are separately assessed with various parcel numbers.

The platting and subdivision of property into separate lots and the development of the subdivided property with streets, sidewalks, curbs, gutters, sewer, water, and utility lines shall not increase the assessed valuation of all or any part of the property, if:

- (1) The property is platted and subdivided in accordance with the Plat Act;
- (2) The platting occurred after January 1, 1978;
- (3) At the time of platting the property is in excess of 10 acres; and
- (4) At the time of platting the property is vacant or used as a farm as defined in Section 1-60.

The Property Tax Appeal Board finds the board of review contends that Section 10-30 is not applicable to subject property which has been improved with structures. The appellant did not refute that contention with any rebuttal and therefore the Board finds that the subject parcel does not qualify for a preferential assessment as the property has been improved.

The appellant also 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.

The appellant submitted limited data on two comparable sales. Comparable sale #1 occurred in 2009 which is remote in time to the valuation date at issue and comparable #2 was reported to be farmland acreage which is different from the subject that is improved with office condominiums.

The board of review through the township assessor reported that the subject parcel has a \$10 assessment for 44,565 square feet that is allocated to a detention pond. Moreover, the remaining 20,628 square feet have a market value of \$10.20 per square foot of land area which is in the low end of the range of the five comparable sales presented by the board of review.

The Board finds the best evidence of market value was presented by the board of review consisting of five sales located within St. Charles Township. Although each of the comparable parcels were larger than the subject property, these comparables were

more similar in land area than the comparables presented by the appellant had 40.66 or 350-acres of land area and were dated in time or were used as farmland which is dissimilar to the subject.

Lastly, the taxpayer contends assessment inequity as a 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 the board of review comparables with land assessments of \$3.40 per square foot of land area. The subject's land assessment of \$10 for a 44,565 square foot detention pond plus \$3.40 per square foot of land area for the remaining 20,628 square feet is identical to the best comparables in this record. 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 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

Klaus Albino

Member

[Signature]

Member

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: July 24, 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.