



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

APPELLANT: Evergreen Place Chillicothe, LLC
DOCKET NO.: 15-00777.001-C-3
PARCEL NO.: 05-29-380-001

The parties of record before the Property Tax Appeal Board are Evergreen Place Chillicothe, LLC, the appellant, by Robert W. McQuellon III, Attorney at Law, in Peoria; the Peoria County Board of Review by member Greg Fletcher; and the Board of Education of Illinois Valley Central Community School Dist. #321, intervenor, by attorneys C. Frazier Satterly and Antonio Senagore of Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP, in Arlington Heights.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction** in the assessment of the property as established by the **Peoria** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$95,510
IMPR.: \$1,937,237
TOTAL: \$2,032,747

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Peoria County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Procedural History

In order to properly understand the context of this appeal and the timely evidence of record that will be examined, it is necessary to briefly outline certain evidentiary filings in this matter.

The appellant's appeal, after a granted extension of time, was based upon comparable sales evidence. By letter dated October 4, 2016, the Property Tax Appeal Board (Board or PTAB) notified the Peoria County Board of Review of the appeal and established a 90-day deadline for the submission of its evidence. (86 Ill.Admin.Code §1910.40) In addition, due to the amount in controversy in this appeal, the board of review on October 19, 2016 filed its Certificate that taxing districts had been notified of this appeal by a mailing made on October 18, 2016. (86 Ill.Admin.Code §1910.40(f))

On December 13, 2016, counsel for the intervenor, Board of Education of Illinois Valley Central Community School District No. 321, timely filed a Request to Intervene. With the filing, counsel for the intervenor also requested a 60-day extension of time to file evidence "and review the evidence submitted at the Board of Review level to determine if an appraisal of the property is necessary." By letter dated December 15, 2016, the PTAB forwarded a copy of the appellant's evidence along with granting the intervenor a 90-day extension, or to March 15, 2017, to file its evidence.

On December 21, 2016, the Peoria County Board of Review postmarked its request for an additional 90-day extension of time to submit its evidence. By letter dated March 17, 2017, the PTAB granted a final 60-day extension of time to the board of review to submit its evidence. Postmarked on April 13, 2017, the board of review timely filed its Notes on Appeal and evidence.

On February 17, 2017, counsel for the intervenor wrote to the Board reporting that an appraiser had been hired, "but due to their current workload, they have indicated they require additional time to properly complete the appraisal." Therefore, the intervenor requested an additional extension of time of 60-days to submit its evidence. At its meeting of March 14, 2017, the Board considered the intervenor's additional extension request and by letter dated March 17, 2017, the Board granted the intervenor a final 60-day extension of time to submit its evidence.

On May 16, 2017, the intervenor's counsel postmarked a four-page letter signed by attorney C. Frazier Satterly with attachments consisting of descriptions of six comparable properties and Exhibit A, a City of Chillicothe Building Permit Application dated October 14, 2013 along with a memorandum from an architect.

On June 1, 2017, the Property Tax Appeal Board issued separate letters to each of the three parties in this proceeding. Each of those letters provided, in pertinent part, that:

You are hereby granted a 30-day period from the postmark date of this letter to submit rebuttal evidence solely addressing any enclosed evidence.

With the aforesaid letter, the Board provided the appellant with copies of the evidence filed by both the board of review and the intervenor. Additionally, the PTAB provided the board of review with a copy of the intervenor's evidence and separately provided the intervenor with a copy of the board of review's evidence. (86 Ill.Admin.Code §1910.66)

The appellant's rebuttal, a letter dated June 30, 2017, proposed that a decision be written on the record in this matter without a hearing. The appellant also proposed an assessment reduction of \$95,000 to \$2,337,230 from the 2015 assessment of the subject property of \$2,432,230. By a letter dated July 6, 2017, the PTAB separately forwarded the appellant's proposed assessment reduction to the board of review and to the intervenor's counsel of record; those parties were each granted until August 5, 2017 (a Saturday) to accept or reject the appellant's proposed assessment reduction. (86 Ill.Admin.Code §1910.25(a)) By a letter timely postmarked on August 7, 2017, intervenor's counsel rejected the appellant's proposed stipulation. By a letter dated August 11, 2017, the Property Tax Appeal Board forwarded copies of the intervenor's rejection of the stipulation to both the appellant and the board of review.

Lastly, postmarked on June 30, 2017, intervenor's counsel, C. Frazier Satterly, filed a four-page letter denoted as "Rebuttal Evidence of Intervenor" which asserted this "correspondence and its attachments¹ are submitted as rebuttal evidence to the taxpayer's submitted comparable sales pursuant to PTAB Rule 1910.66(a)." Copies of said purported rebuttal filing were forwarded by the Board separately to both the appellant's counsel of record and the board of review.

On this record, as outlined above, and in light of the procedural rules applicable to proceedings before the PTAB, the Board finds that the intervenor's purported rebuttal filing of June 30, 2017 was untimely and therefore will not be further considered on this record. The only evidence that was provided to the intervenor with the June 1, 2017 correspondence from the Board to intervenor's counsel was a copy of the board of review's evidence; the intervenor had 30 days to file rebuttal as to that Peoria County Board of Review evidence, if it so desired. In contrast, the intervenor had in its possession the appellant's evidence since the mailing by the Board dated December 15, 2016; rebuttal to the appellant's evidence, if any, should have been filed no later than 60 days from March 17, 2017 with its evidentiary submission. In summary, for purposes of this decision, the Board finds the intervenor's rebuttal filing as to appellant's comparable sales evidence was filed untimely and will not be considered in rendering this decision.

Findings of Fact

The subject property consists of a two-story, 73-unit, senior living facility of brick exterior construction with a concrete slab foundation. Construction on the facility commenced in 2013 and the property record card indicates the year of construction was 2013. The record further indicates the improvement was first partially assessed as of January 1, 2015 as 60% complete. The facility has 68,988 square feet of building area and consists of 53 assisted living units and 20 memory care units. The evidence at hearing further established that the facility was occupied as of June 5, 2015. The property has a 6.04-acre or 263,102-square foot site located in Chillicothe, Chillicothe Township, Peoria County.

The appellant through counsel appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal and also raising an issue of proration of the 2015 assessment since an occupancy permit was not issued until July 2015. Contention of law was not marked as a basis of the appellant's appeal in Section 2d of the Commercial Appeal petition and no legal brief was supplied concerning the proration argument. Additionally, no documentation of the purported occupancy permit was presented in this matter.

In support of the overvaluation argument, the appellant timely filed information on three comparable sales along with printouts further describing the properties/sales along with the Illinois Real Estate Transfer Declarations (three) for comparable sale #1. The appellant presented the sales data at hearing through the testimony of Robert W. McQuellon, Jr. The witness has held a real estate broker's license since 1973 and has been specializing in real estate tax appeal work since 1986. He was formerly a registered professional member of the National Association of Real

¹ The Board notes that there were no attachments to the letter.

Estate Appraisers. The witness has also taken courses concerning commercial real estate investment, commercial industrial appraisal, listing and selling among others. (TR. 11)²

The appellant's Section V grid analysis, along with attached documentation, consists of properties located in Bensenville (DuPage County), Highland Park (Lake County) and Coulterville (Randolph County). Comparable #1 was described as a continuing care retirement community (CCRC); comparables #2 and #3 were each said to be skilled nursing facilities. The comparable parcels range in size from 179,032 to 1,045,505 square feet of land area which have been improved with one building each as to comparables #2 and #3 and three buildings for comparable #1. Comparables #1 and #3 were constructed in 1996 and 1999, respectively; no date of construction was reported for comparable #2. These one-story or three-story brick and frame buildings range in total size from 32,660 to 201,582 square feet of building area and have from 75 to 222 units. The comparables sold between December 2013 and December 2014 for prices ranging from \$4,300,000 to \$17,888,500 or from \$57,333 to \$81,082 per unit.

At hearing, witness McQuellon, Jr. also testified to data that was not part of the appellant's evidentiary submission, namely, a calculation of the estimated market value of the three comparable sales based upon their respective assessments in the respective counties. (TR. 18-20)³

During cross-examination of McQuellon, Jr. it was established he is not currently nor has he ever been a licensed real estate appraiser in Illinois or any other state. Further questioning noted the differences in building size, building age, dates of sale and/or proximity of the comparable properties to the subject. The witness testified that no adjustments were made for any differences between the subject and the comparable properties, rather the Section V data in the grid analysis was completed by the witness. (TR. 20-26)

On re-direct, McQuellon, Jr. testified that the comparable sale properties were in operation at the time they sold. (TR. 26-27)

The next witness called at hearing by the appellant was Shawn Crabel, the Chillicothe Township Assessor, who has held that position since 2014 and worked with the predecessor in that office in 2013. The township assessor position is a paid part-time position. The witness testified to having a Bachelor's degree in finance and a Masters of Business Administration degree; he is also a Certified Illinois Assessing Official. Furthermore, he has a history of real estate investment in Chillicothe since 1992. (TR. 28-29, 43)

In order to assess the subject property for January 1, 2015, in late December 2014, Crabel went with the "appraiser for Peoria County" to check on the status of the subject property in order to determine the percentage of completion of construction as of January 1, 2015; at that time, "we" determined the subject was 60% complete. Crabel then "calculated the full cash value" consisting of the land value plus the permitted foundation cost and the permitted building cost which totaled

² References to the transcript of the proceedings will be referred to as "TR." followed by page number citation(s).

³ The transcript of the hearing provides data as to the estimated market values of comparables #1 and #3 purportedly based upon their respective assessments of \$19,357 and \$37,621 per unit; the transcription of the proceedings as to comparable #2 is either in error or the witness misspoke in testimony; mathematically the numbers appear to be in error for sale #2.

approximately \$11,956,000. Applying the 60% factor, the value was "just over \$7 million" and adding in the land took the value to \$7,288,000. (TR. 29)

Crabel then compared his value conclusion to a recent sale of a similar property in Peoria, the Grand View Care Center, which sold in November 2014 for \$14,601,000 as an operating facility. Crabel did not know if that sale was an arm's length transaction. This comparable sale was approximately half the size and half the units as compared to the subject. At the time of inspection for January 1, there were 73 units [apartments], some of which were two-bedroom units; Crabel did not know how many beds were going to be in the subject facility. "It's my understanding that units could be number of beds." In Crabel's analysis, units consist of 73 apartments. (TR. 29-30, 42-43)

In determining the level of completion, Crabel was asked to detail what was inspected such as the interior, electrical, plumbing and/or trade fixtures. The witness testified Peoria County provides a list "so that we are applicable countywide what percent we add for what is completed." He testified to examples, such as, if drywall were completed; if electrical was roughed in; if appliances were in; and if fixtures were in. (TR. 30-31)

Crabel stated he had no knowledge of the provision of the Property Tax Code, 35 ILCS 200/9-180, governing proration of property assessments. As to the provision "from the date the occupancy permit was issued, or from the date the new or added improvements were inhabitable or fit for occupancy for this intended customary purpose," Crabel testified that he was following the policy of Peoria County as to percent complete as of January 1st. He further opined that it was a moot point because the percent occupancy was almost exactly 60% for the year and was, therefore, the same number. (TR. 31-32)

In answer to the question when the occupancy permit was issued for the subject property, Crabel testified that the Chillicothe Fire Department okayed occupancy and the zoning officer deemed it completed on June 5. Crabel had no knowledge of any survey access/inspection by the State of Illinois. (TR. 32-33)

As a township assessor, Crabel maintains property record cards of properties within his jurisdiction, including the property record that was included in the appellant's evidence. Crabel's "notes" are depicted in the lower left-hand corner of page one of the subject's property record card; that is the information Crabel "put in." Data was actually input to the record card by Adam Curry, the commercial appraiser for Peoria County. (TR. 38-40)

At hearing, with reference to the property record card in the lower left-hand corner of page one, Crabel informed the County to insert the data of permit 14-002 for \$11,278,531. Crabel also testified there were two separate building permits for the subject: one for the foundation of approximately \$390,000 and a second permit for the building of \$11,278,531. At page two of the property record card for the subject under "Summary of Improvements," the building was reported as 60% complete with a value of \$4,595,330. Crabel testified this figure came from Peoria County's ProVal System; Crabel could not explain how the ProVal system functions. In further explanation, the witness pointed to the cost ladder also depicted on page two in the upper right-hand corner of the property record card. Crabel testified that he gives "them the information, they put it in. I told them the value. I can't – I'm not able to reconcile what's on their property record

card and those calculations." Crabel did not use Marshall & Swift [a cost manual]; he "felt actual cost was a pretty good indication of the cost." Crabel also compared the subject's data to the recent sale of Grand View Care Center which sold for \$465 per square foot of building area, including land. As a result, Crabel felt he was being pretty conservative and the value assigned to the subject was fair. Crabel provided data on the comparable sale property in response to the appellant's appeal for tax year 2015 before the Peoria County Board of Review; the witness had no knowledge if that sale data was provided to the Property Tax Appeal Board. (TR. 34-37, 39, 40-42)

Upon questioning by the Peoria County Board of Review representative, Crabel testified the foundation work permit for the subject was \$390,200 and the building permit was \$11,278,551. Crabel applied 60% for the building and foundation only with the land being separate. (See Intervenor Exhibit A, page 2 – Transmittal of Heidi Dahle, Project Architect of Worn Jerabeck Architects, P.C. to Chillicothe Zoning Administrator dated October 15, 2013; TR. 44-45)

For cross-examination by the intervenor's counsel, it was established that Crabel attended the subject Property Tax Appeal Board hearing at the request of intervenor's counsel. (TR. 45-46)

Under redirect examination by appellant's counsel, Crabel testified that a foundation is a part of a building and the witness agreed that the total cost of a building would include a foundation, a roof, walls and other features. However, as to the subject property, the City of Chillicothe required a separate foundation permit of \$390,000 and a second building permit. The township assessor opined that the \$11,278, 551 plus the \$390,200 for a total of \$11,688,751 is 100% fair valuation of the subject building, including foundation. (TR. 47-48)

Based upon the foregoing evidence and as set forth in the appeal petition, the appellant requested a total assessment of \$1,216,000 which would reflect an estimated market value of approximately \$3,656,043 or \$50,083 per unit, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$2,432,230. The subject property has a land assessment of \$95,510 and an improvement assessment of \$2,336,720. The subject's total assessment reflects a market value of \$7,312,778 or \$100,175 per unit, land included, when using the 2015 three year average median level of assessment for Peoria County of 33.26% as determined by the Illinois Department of Revenue.

Appearing at hearing was board of review member J. Gregory Fletcher. In support of its contention of the correct assessment, the board of review timely previously submitted a memorandum prepared by Kristina K. Clore, a now former Chairman of the Peoria County Board of Review, along with information on three comparable sales. Fletcher acknowledged at hearing that the memorandum and underlying comparable sales data were gathered by Clore.

On behalf of the board of review, Fletcher testified that board of review sale #2 was the property previously identified by Crabel as "Grand View Alzheimer's." (TR. 53)

No other testimony was provided at hearing concerning the board of review's submission. The rebuttal memorandum prepared by Clore asserted that each of the appellant's comparable sales were significantly older than the subject property. Appellant's sale #1 was not advertised for sale

and Clore asserted the sale price did not exclude the personal property.⁴ As to appellant's sale #2, Clore noted the attached documentation asserting the buyer planned to spend a significant amount in upgrades after purchase. The memorandum also asserted that appellant's sale #3 was a "not for profit which was purchased by the buyer to divest his business"; Clore asserted the sale was, therefore, not considered arm's-length or similar to the subject which operates for profit.

In support of the subject's assessment, the board of review set forth data in a grid analysis on three suggested comparable sales of brick or frame construction located in the cities of Chatham (Sangamon County), Peoria and Morton (Tazewell County). Comparables #1 and #2 reportedly have 13 and 38 units, respectively; no number of units was reported for sale #3 in Morton. As to comparable #1 in Chatham, the board of review provided a printout indicating the 50-bed facility sold in March 2014 for \$6,567,000, which the board of review reported as a 13-bed facility sale that purportedly occurred in August 2015. The buildings were built between 1972 and 2012 and range in size from 30,573 to 46,130 square feet of building area. Comparable sale #1 also has a partial basement. The comparables were reported to have sold between November 2014 and August 2015 for prices ranging from \$3,838,000 to \$14,601,000 or from \$125.54 to \$465.43 per square foot of building area, including land; only as to comparables #1 and #2 the sales per unit are \$505,154 and \$384,237, respectively; as noted previously, no number of units was reported for sale #3.

On cross-examination by the appellant's counsel, Fletcher acknowledged that the property record card related to comparable sale #2 of Grand View includes a notation that the 2014 sale was "not advertised business and real estate investment sale." (TR. 54; BOR evidence page 5)

Upon further examination by appellant's counsel, Fletcher was not aware that the property address for sale #1 was erroneous and that the facility actually had 50 units, not 13 as reported in the grid. To Fletcher's knowledge, sale #2 had "just opened" and been completed when it sold. In questioning, it was suggested that sale #3 had 106 beds (units) for a sale price of \$36,208 per unit.⁵ (TR. 55-57)

Intervenor's counsel upon examination established that Fletcher became a member of the Peoria County Board of Review in June 2017.

Based upon the foregoing evidence, the board of review contended that a reduction in the subject's assessment was not warranted.

Appearing at hearing on behalf of the intervenor, Board of Education of Illinois Valley Central Community School Dist. #321, was attorney Antonio Senagore.⁶

⁴ A review of the underlying PTAX-203 Real Estate Transfer Declarations actually reveals that the appellant's grid analysis did exclude the personal property, but then overstated the value less personal property by \$500 as the total should have been \$17,888,000. ($\$15,169,890 - \$3,727,800 = 11,442,090$; $\$7,243,500 - \$1,281,000 = \$5,962,500$; $\$586,610 - \$103,200 = \$483,410$)

⁵ The transcript of the proceedings indicated a price of \$36,707 per bed. The Board finds that mathematically the correct calculation would be \$36,208 per unit.

⁶ While counsel of record with the request to intervene, Attorney C. Frazier Sattlerly did not participate in the hearing; both Ms. Sattlerly and Mr. Senagore work for the same firm.

At the hearing, the intervenor called the Chillicothe Township Assessor Crabel to testify in its case-in-chief. Crabel reiterated that in order to assess the subject property for tax year 2015, he took the permitted foundation amount and the permitted building amount, applied 60% to the foundation and building since it was 60% complete as of January 1st of the assessment year, and added the land valuation to arrive at approximately \$7,288,000 as a fair full value. Crabel was of the opinion that he accounted for the partial occupancy for tax year 2015 in his manner of assessing the property. He also checked his valuation conclusion by looking at the recent sale of Grand View Care Center. (TR. 58-59, 60-61)

The witness testified that to his knowledge, the subject property's income and expense statements are not publicly available and the township assessor was not given any such income and expense statements for the property. At the time the property was assessed, Crabel was not able to conduct any kind of income and expense analysis of the property. (TR. 59)

As to occupancy of the subject facility in 2015, Crabel based this determination upon the percentage complete as of January 1, 2015 and he later confirmed full completion in June when he attended an open house for the Chamber of Commerce. Crabel did not have any records from the Chillicothe Zoning Department in reaching his determination; the department had not issued anything as of January 1, 2015. Subsequently, the village forwarded a letter to Crabel from the architect that the facility was available for occupancy as of June 5. (TR. 61-63)

On cross-examination, appellant's counsel inquired whether Crabel asked any questions of the Zoning Department concerning State of Illinois occupancy permits. Crabel had not made such inquiry. Crabel also did not consider the Property Tax Code (state law) concerning the valuation of partial improvements occasioned by new construction or added buildings to be added as of the date of occupancy rather than a percentage of completion as of January 1, 2015. (TR. 63-64)

While Crabel considered the one sale, he did not check any other comparable sales data. The witness acknowledged that the subject property was not in operation as of January 1, 2015. Crabel had no knowledge as to when the facility began collecting deposits or receiving income. Crabel did not examine income data for other similar properties in the process of developing his opinion of value for the subject as of January 1, 2015. The witness acknowledged the subject is a unique property; given multiple definitions of the term, Crabel would not characterize the subject as a special use property. (TR. 64-66)

For redirect examination by the intervenor, Crabel testified that the cost of a building is one piece of evidence an assessor would use to assess property and he also relied upon a comparable sale in addition to the cost data. (TR. 59)

In support of the subject's assessment, the intervenor previously presented in evidence a narrative of six suggested comparable sales. The submitted data was prepared by the intervenor's law firm and signed by attorney C. Frazier Satterly with attached pages for each comparable which are identified as prepared by MaRous & Company along with Exhibit A consisting of a City of Chillicothe Building Permit Application and the previously referenced transmittal from the project architect. The data was reportedly gathered by Michael MaRous (phonetic). (TR. 8-10, 69-70) No witness was called to testify concerning the comparable sales presented by the intervenor and

the intervenor specifically rested its case-in-chief of comparable sales evidence on the written record.

At hearing, appellant's counsel objected to the admissibility of the intervenor's comparable sales data based upon lack of testimony. In response to the objection, the intervenor contended that its data submission complies with the Board's procedural rules; no witness was brought to hearing on the belief that such testimony would be hearsay since the sales data speaks for itself and should be admitted. The objection was taken under advisement for consideration with this decision by the Property Tax Appeal Board. (TR. 70-72)

The intervenor's six comparable sales prepared by the law firm are set forth from the documentation. The comparables are located in the communities of Morris (Grundy County), Peoria, Peru (LaSalle County), Rockford (Winnebago County), Pekin (Tazewell County) and Washington (Tazewell County), respectively. The comparable parcels range in size from 117,612 to 217,800 square feet of land area and have been improved with buildings that were built between 1999 and 2009. Comparable #2 is a one-story structure and four of the comparables are two-story buildings; no story height was presented for comparable #3. The buildings range in size from 43,142 to 79,580 square feet of building area and the facilities have from 58 to 171 units/beds. The comparables sold between December 2009 and May 2013 for prices ranging from \$7,500,000 to \$22,000,000 or from \$102,740 to \$182,295 per unit, including land. The data further depicts that sales #1 through #4 were made by cash transactions and sales #5 and #6 were reportedly part of "multi-parcel transaction[s]."

Based on this evidence and argument, the intervenor requested confirmation of the subject's assessment. Furthermore, as part of its closing argument, the intervenor pointed out that the appellant's appeal was based only on comparable sales; the appeal petition did not specify an argument based upon provisions of the Property Tax Code concerning partial assessment and/or prorate valuation along with submission of a legal brief.

Conclusion of Law

Equity issue

At hearing, the appellant through its first witness orally presented assessment data as to the comparable properties used in the appellant's sales comparison analysis. Given this evidence, the appellant newly at hearing raised an assessment inequity argument. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. [Emphasis added.] As set forth in further detail below, this lack of assessment equity argument was an inappropriate argument to be made newly at hearing and, to the extent that a party could make such an argument, the data presented is irrelevant since it was not from the subject jurisdiction for purposes of a lack of assessment uniformity claim concerning a property located in Peoria County.

First, "each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board." (35 ILCS 200/16-180). The sole basis of the instant appeal was comparable sales

with a notation in the evidence that the subject property did not receive an occupancy permit until July 2015 where this latter assertion could be viewed as a contention of law, although said basis was not marked in Section 2d of the Commercial Appeal petition and no specific brief asserting a contention of law was submitted.

Second, the appellant's evidentiary submission in this proceeding lacked the assessment data of the comparable properties as depicted in the grid analysis where "N/A" is typed in for each properties' assessment data. The assessment data orally presented at hearing is new evidence and not allowable under applicable procedural rules. (86 Ill.Admin.Code §1910.30(g))

Third, and more importantly, the comparable properties presented by the appellant are not located within Peoria County and therefore this lack of assessment equity argument is irrelevant. The law is clear that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989); 86 Ill.Admin.Code §1910.63(e). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. [Emphasis added.] The Uniformity Clause of the Illinois Constitution provides that: "Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401 (1960). Taxation must be in proportion to the value of the property being taxed. Apex Motor Fuel, 20 Ill. 2d at 401; Kankakee County Board of Review, 131 Ill.2d at 20. Fair cash value of the property in question is the cornerstone of uniform assessment. Kankakee County Board of Review, 131 Ill.2d at 20. It is unconstitutional for one kind of property within a taxing district to be taxed at a certain proportion of its market value while the same kind of property **in the same taxing district** is taxed at a substantially higher or lower proportion of its market value. Kankakee County Board of Review, 131 Ill.2d at 20 [emphasis added]; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234 (1998). The subject and the three comparable sale properties are not located within the same assessment jurisdiction and/or the same taxing district. Therefore, this portion of the appellant's evidentiary presentation will not be further addressed on this record as it was untimely and does not properly establish a lack of assessment equity under the case law. Cherry Bowl, Inc. v. Property Tax Appeal Board, 100 Ill.App.3d 326 (2nd Dist. 1981) (evidence of assessment practices of assessors in other counties was inadmissible since interpretation(s) by assessors throughout Illinois is irrelevant as to whether township assessor correctly assessed subject property).

Overvaluation - Comparable sales evidence

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The record contains three comparable sales submitted by the appellant, three comparable sales submitted by the board of review and six comparable sales submitted by the intervening taxing district. All twelve comparables have varying degrees of similarity to the subject facility in terms of land area, age, building size and/or number of units/beds at the respective facilities. The sales occurred between December 2009 and August 2015 for prices ranging from \$3,838,000 to \$22,000,000 or from \$57,333 to \$505,154 per unit/bed as reported by the respective parties in their filings with the Property Tax Appeal Board.

Examination of the data in the course of hearing and a review of the data by the Property Tax Appeal Board in its analysis has established that certain of the sales should be given reduced weight for various reasons. The Board gives reduced weight to appellant's comparable #1 due primarily to its size both in the structure(s) and in having 222 units; furthermore, this is a continuing care retirement community which differs from the subject assisted living facility. Appellant's comparable #2 was also given reduced weight due to lack of data on its age and the large number of units when compared to the subject property. Reduced weight has been given to board of review comparable #2 since the county's property record card indicates that the property was not advertised and was a "business and real estate investment sale" which data indicates the sale was not an arm's length transaction suitable for analysis for market value purposes. The Board has also given reduced weight to board of review comparable #3 due to its age and lack of any data on the number of units/beds at the facility which prevents a complete analysis of the sale information. Having examined the documentary evidence that was presented by the intervenor and considering the lack of any testimony at hearing concerning the intervenor's sales evidence, the Board gives all six comparable properties presented by the intervenor reduced weight finding that the sales are dated since they occurred between December 2009 and May 2013, dates which are remote and/or more remote in time to the valuation date at issue of January 1, 2015 and thus, less likely to be indicative of the subject's estimated market value.

Therefore, the Board finds the best evidence of market value to be appellant's comparable sale #3 and board of review comparable sale #1. Based on the record, board of review sale #1 has 50 units, not the 13 units reported by the board of review, which results in a sale price of \$131,340 per unit. These most similar comparables sold in December 2013 and August 2015 for prices of \$4,300,000 and \$6,567,000 or for \$57,333 and \$131,340 per unit, including land. The subject's assessment reflects a full market value at 100% complete for tax year 2015 of \$7,312,778 or \$100,175 per unit, land included, which is bracketed by the best comparable sales in this record on a per-unit basis. Furthermore, appellant's sale #3, which is at the low end of the prices, was a facility that had been built in 1999 and therefore older than the subject's new construction. After considering adjustments for differences, the result is that the Board finds a reduction in the subject's assessment is not justified for overvaluation.

Sections 9-160 & 9-180 of the Property Tax Code

In accordance with the Property Tax Code, the Property Tax Appeal Board shall make a decision in each appeal or case appealed to it, and the decision shall be based upon equity and the weight of the evidence. (35 ILCS 200/16-185) Therefore, in light of the evidence of record, the Board will consider the merits and application of partial and/or prorated assessment provisions of the Property Tax Code to the instant proceeding, despite the appellant's failure to allege a contention of law and/or file a legal brief concerning the issue.

The appellant argued in part that the Peoria County/Chillicothe Township assessment officials misapplied the Code, namely section 9-180, as it relates to the assessment of a building that was not complete as of January 1, 2015. First, the Board finds the evidence establishes that the subject was not complete and habitable as of January 1, 2015. The township assessor testified the building was almost deemed to be 60% complete as of January 1, 2015 and the township assessor therefore established an assessment at 60% complete as of January 1, 2015 based on the foundation and building permit costs as reported. The appellant contends that because the building was incomplete and not suitable for occupancy as of January 1, 2015, there was no statutory authority to assess the improvements as of that date.

As a consequence of the partial assessment issued by the township assessor, the assessing officials and the intervenor contend the subject received a partial assessment as of January 1, 2015, based on being 60% complete, which given the occupancy as of June 5, 2015 also reflects a prorated assessment from June 5, 2015 to December 31, 2015. The appellant argued that the prorated assessment allowed by Section 9-180 of the Code should be calculated from the date an occupancy permit was issued, although no specific documentation or evidence of that date was presented.

Initially, the Property Tax Appeal Board finds the board of review was correct in assessing what was present on the subject parcel as of January 1, 2015. Section 9-160 of the Code provides in part that:

On or before June 1 in each year other than the general assessment year, in all counties with less than 3,000,000 inhabitants . . . the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, all new or added buildings, structures or other improvements, the value of which was not included in the valuation of the property for that year, and all improvements which were destroyed or removed. . . .

35 ILCS 200/9-160.

Furthermore, Section 9-180 of the Code provides in part that:

The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. .

Computations under this Section shall be on the basis of a year of 365 days.

35 ILCS 200/9-180.

Under the facts of his appeal the township assessor clearly valued the subject as of January 1, 2015 based on the improvements being 60% complete. The Property Tax Appeal Board finds this is authorized pursuant to section 9-160 of the Code. In this regard, the subject property was to be assessed at 60% of its complete improvement value for the period of January 1, 2015 through June 4, 2015. The calculation of the partial assessment under Section 9-160 reflects 156 Julian calendar days of the 365 day calendar year. The subject's improvement assessment of \$2,336,720 at the three year median level of assessment in Peoria County for 2015 of 33.26% reflects a full market value of the improvement of \$7,025,616. The partial assessment should reflect 60% of the full value or \$4,215,370 and applying the fraction of 156 days over 365 days results in a full value for the period of the partial assessment of \$1,801,637.

The court in Long Grove Manor v. Property Tax Appeal Board, 301 Ill.App.3d 654, 704 N.E.2d 872, 235 Ill.Dec.299 (2nd Dist. 1998) construed the workings of Sections 9-160 and 9-180 of the Code. The court held that:

Section 9-160 requires the assessor to record any new improvements and to determine the value they have added to the property. By its terms, section 9-180, applies only after a building has been substantially completed and initially occupied. Reading these two sections together, section 9-160 clearly requires the assessor to value any substantially completed improvements to the extent that they add value to the property. Section 9-180 then defines the time when the improvement can be fully assessed. This occurs when the building is both substantially completed and initially occupied. We note parenthetically that the legislature has amended section 9-180 to provide that an improvement may be fully assessed when it is *either* substantially completed *or* initially occupied.

Long Grove Manor, 301 Ill.App.3d at 656-657. The court in Brazas v. Property Tax Appeal Board, 339 Ill.App.3d 978, 791 N.E.2d 614, 274 Ill.Dec.522 (2nd Dist. 2003) clarified its holding in Long Grove Manor. The court explained that:

[W]e clarify that *Long Grove Manor* stands for the principle that section 9-160 allows the assessor to value any partially completed improvement to the extent that it adds value to the property, regardless of whether the improvement is "substantially complete." Furthermore, section 9-180 addresses when the assessor is allowed to fully assess the improvement, *i.e.*, when it is "substantially completed or initially occupied or initially used."

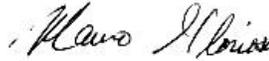
Brazas, 339 Ill.App.3d at 983.

The record also reveals that the subject was occupied on June 5, 2015. The provisions of Section 9-180 of the Property Tax Code must be applied for the period of June 5, 2015 through December 31, 2015. This is a period of 209 calendar days based upon a 365 day calendar year, at which time the subject improvement was fully assessable on a pro rata basis pursuant to Section 9-180. The

full value of the subject improvement of \$7,025,616 must be applied on a pro rata basis for the remainder of the 2015 calendar year. Applying this pro rata calculation, the full improvement value for the latter portion of 2015 would be \$4,022,887.

Adding the uninhabited improvement value of \$1,801,637 and the inhabited improvement value of \$4,022,887 results in a total improvement fair cash value of \$5,824,524. Next, the 2015 three year median level of assessment in Peoria County as determined by the Illinois Department of Revenue of 33.26% is applied which results in an improvement assessment for 2015 of \$1,937,237.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member

Member

DISSENTING: _____

CERTIFICATION

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: November 20, 2018



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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