



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

APPELLANT: Weder Agricultural Partnership
DOCKET NO.: 15-06581.001-R-1
PARCEL NO.: 02-02-07-100-003

The parties of record before the Property Tax Appeal Board are Weder Agricultural Partnership, the appellant, by Derek Filcoff, Attorney at Law in Granite City; and the Clinton County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds ***no change*** in the assessment of the property as established by the **Clinton** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$13,050
IMPR.: \$0
TOTAL: \$13,050

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Clinton 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.

Findings of Fact

The subject property consists of a 19.58 acres of vacant timber land located in Wheatfield Township, Clinton County.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal.¹ In support of this argument the appellant submitted evidence disclosing the subject property was purchased on February 11, 2014 for a price of \$29,320. The property was not advertised for sale and sold by Highland Supply Corporation a related corporation. Also, in support of this argument the appellant submitted an appraisal of the subject property to support the sale price. The appraisal was prepared by Barry T. Loman, SRA

¹ A consolidated hearing was held under Docket Nos. 15-06578.001-R-1, 15-06579.001-R-1, 15-06580.001-R-1, 15-06582.001-R-1, 15-06583.001-R-1, 15-06584.001-R-1 and 15-06585.001-R-1.

and an Illinois State Certified General Appraiser. The intended use of this report is for corporate purposes and the intended user is the Highland Supply Corporation. The appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$29,370 as of June 25, 2014. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

At the hearing the board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board reserved ruling on the objection.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$13,050. The subject's assessment reflects a market value of \$38,667 or \$1,975 per acre of land area, when using the 2015 three-year average median level of assessment for Clinton County of 33.75% as determined by the Illinois Department of Revenue.

Representing the board of review was Supervisor of Assessments, Linda Mensing, who is also the clerk to the Board of Review. Also present from the Board of Review was Wayne Kiefer, Chairman, Janet Heimann and Gail Schuermann, members.

The board of review reported that the appraiser only used three sales in Clinton County for the appraisal when there were other land sales that were not used.

In support of its contention of the correct assessment the board of review submitted information on eleven comparable timber land sales located in Clinton County within 27 miles from the subject property. The comparables range in size from 10 to 53.33 acres. The comparables sold from January 2013 to December 2014 for prices ranging from \$25,000 to \$146,125 or from \$1,750 to \$4,450 per acre of land area. Based on the evidence and testimony, the board of review requested that the assessment be confirmed.

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.

The Board gave little weight to the subject's sale due to the fact the sale did not have the elements of an arm's length transaction as it was sold between related parties and was not advertised or exposed on the open market.

Furthermore, in support of the overvaluation argument the appellant submitted an appraisal. The appraisal estimated the subject property had a market value of \$29,370 as of June 25, 2014. The board of review objected to the appraisal report contending that the appraiser was not present to be cross-examined. The Board hereby sustains the objection. The Board finds the appellant's

appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination". This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Based on this case law, the Board gives the conclusion of value contained in the appraisal no weight since the appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value.

The courts have also stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. The Board finds there are credible market sales contained in this record, and therefore, the Board will examine the raw sales data contained in this record, including the sales/listing in the appellant's appraisal.

The Board finds the record contains 20 comparable sales/listing submitted by the parties in support of their respective positions. The Board gave less weight to the comparables in appellant's appraisal #1, #2, #3 and #7 along with the board of review comparables #1, #2, #3, #4 and #5. These properties sold from September 2011 to November 2013, which are dated and less indicative of fair market value as of the subject's January 1, 2015 assessment date. The Board gave less weight to the appraiser's comparables #4, #5, #6, #8 and #9. These comparables had tillable land, wetlands, pastureland and/or buildings when compared to the subject's timber land. The Board finds the best evidence of market value in the record to be the comparable sales #6 through #11 submitted by the board of review. These comparables were similar to the subject in being timber land sales. These properties also sold proximate in time to the assessment date at issue. The comparables sold for prices ranging from \$25,000 to \$75,000 or from \$1,875 to \$3,500 per acre of land area. The subject's assessment reflects a market value of \$38,667 or \$1,975 acre of land area, which is within the range established by the best comparable sales in this record. After considering adjustments to the comparables for any differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction in the subject's assessment is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code. 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



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: April 21, 2020



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

AGENCY

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COUNTY

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