



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

APPELLANT: Paris Feed and Animal Health, Inc.
DOCKET NO.: 16-02838.001-C-1
PARCEL NO.: 09-18-12-126-001

The parties of record before the Property Tax Appeal Board are Paris Feed and Animal Health, Inc., the appellant, and the Edgar County Board of Review.

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 **Edgar** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$7,900
IMPR.: \$65,773
TOTAL: \$73,673

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Edgar County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2016 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 pole building containing both office and warehouse space and a concrete dock that are not at issue in this appeal. In addition, the property has a two-year-old eight foot by twenty-four-foot "ice house" (also referred to by the parties as an 'ice vending machine')¹ that is the subject matter of this appeal. The property has a 2.3-acre site and is located in Paris, Paris Township, Edgar County.

The appellant contends assessment inequity as the basis of the appeal concerning an ice house which dispenses both purified water and bags of ice to patrons. The subject ice house is located

¹ Both parties refer to data from Ice House America. The appellant submitted Exhibit #1, an e-mail issued by an employee of Ice House America describing the cost of the building structure. The board of review submitted an FAQ printout from Ice House America which refers to three models of "automated ice machines in different sizes and with different capabilities." (Board of Review Attachment #5)

on the subject parcel and a print-out from the assessing officials supplied with the appeal depicts a market value of \$50,000 assigned to the subject ice house.

In a brief supplied with the appeal, the appellant reports that a lease was signed in July 2015 with BHR Ice House, LLC, which owns and operates the subject ice house. The appellant describes that after execution of the lease, the owners of the ice house transported the unit by truck to the subject property and placed it on the leased ground.

A photograph included with the brief depicts a steel-sided "trailer" with an awning on one narrow end and with protective poles imbedded intermittently around the trailer presumably to prevent encroachment/damage from approaching vehicles. The unit has both an electrical hook-up and a water hook-up. There is no sewer attached to the unit and the appellant contended the ice house is not a habitable building.

As part of the brief, the appellant provided photographs and a narrative of the "typical" installation of an ice house depicting the unit being brought to the site on a trailer. The unit is then set on cinderblocks with the use of a crane. The brief explained the reason cinderblocks are used is to ensure the height of the ice house is conducive to the patrons for easy access for the purchase of water and bags of ice from the ice house.

In the brief, the appellant made reference to the definition of real property for purposes of taxation in Illinois, but the appellant contended this appeal is "centered around the value that Edgar County has assigned to the Ice Vending Machine." In support of this argument, the appellant submitted several documents.

Exhibit #1 consists of e-mail correspondence with the dealer from whom BHR Ice House purchased the Ice Vending Machine from known as Ice House America. The appellant summarized the exhibit as detailing the value of the frame, floor, walls, door and roof of the ice house structure to be \$15,000. Any costs above this would reflect the vending equipment located inside of the ice house, including the ice makers, ice bins, water purification systems and related items.

The appellant also completed the Section V grid analysis of the Commercial Appeal petition with data on five comparable properties located from 1 mile to 179 miles from the subject property. Comparables #1 and #2 are located in the Illinois communities of Sparta and Salem which are not within Edgar County. Comparables #3, #4 and #5 are each located in Paris. In the brief and with applicable attachments, the appellant explained the five suggested comparable properties. Based upon data in Exhibit #2 which was information provided to BHR Ice House, LLC, comparable #1 reflects the assessment of an ice house ('Ice Vending Machine') located in Randolph County of \$985 and comparable #2 reflects the assessment of an ice house ('Ice Vending Machine') located in Marion County of \$4,850.² The appellant reports that after doing

² Data presented by the appellant also included the applicable tax rates in each of these counties and thus, the estimated tax applied to the ice house. The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation. (86 Ill. Admin. Code §1910.10(f)). Thus, the taxes in these respective counties have not been considered in this decision by the Board.

research, no other 'Ice Vending Machines' were found to be located within Edgar County, but other possible comparable structures were located and presented as comparables #3, #4 and #5.

Comparable #3 consists of a property that is primarily a bowling alley facility but includes "an ice cream stand" located on the parcel as well. A photograph depicts a large shed-type structure with electric service and a large sliding window with a small shelf beneath the window on the exterior for the service of patrons who stand outside. As a food operation, the appellant believes the structure may also have water service. The appellant reported that assessment records do not indicate any assessment of this structure.

Comparable #4 is a property operated as a car wash facility with multiple bays. Included on the property are "money vendors along with canopies in front of the car wash." The appellant included a photograph of the facility which appears to depict two free-standing money vendors with attached canopies. The appellant reported in the brief that reviewing the assessment records did not reveal any assessment placed upon the money vendors which have electric service; the appellant also noted the money vendors are bolted to the concrete parking lot.

Comparable #5 is a multi-tenant building also with an ATM [automated teller machine] unit with electric service and a six to ten-foot canopy located on the parcel. The ATM is located on the outlot of the property as depicted in the photograph contained in the brief. As reported by the appellant, the assessor records depict an assessment of \$5,276 for the ATM structure for an estimated market value of approximately \$15,830.

Based on the foregoing information and argument, the appellant contends that the subject ice house located on the subject parcel should have an assessment of no more than \$5,000 which would reflect its fair market value of \$15,000 for the unit as shown by the manufacturer/dealer of the unit in Exhibit #1. However, the appellant also notes that based on the inconsistent treatment of structures such as the subject ice house, perhaps there should be no assessment on the unit at all.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$85,220. The subject property has a land assessment of \$7,900 and an improvement assessment of \$77,320 which consists of three assessed improvements as depicted in the property record card (Attachment #3): a 15,360 square foot pole building built in 1997 with a 16-foot ceiling height, a 144 square foot concrete dock built in 2008 and the ice house that is at issue in this appeal. While the board of review failed to specify the individual improvement assessments for each of these components of the property, the board of review filing appears to depict an improvement assessment of approximately \$59,540 for the pole building; an improvement assessment of approximately \$1,233 for the dock; and an improvement assessment of approximately \$16,667 for the ice house.

As set forth on the property record card, the pole building has an estimated market value of \$178,260, the concrete dock has an estimated market value of \$3,700 and the ice house has an estimated market value of \$50,000. The subject's total assessment reflects a market value of \$255,150, land included, when using the 2016 three year average median level of assessments for Edgar County of 33.40% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review included a cover letter signed by the members of the Edgar County Board of Review stating, in pertinent part, "the rarity of the structure which the appellant has filed on has made it difficult to prepare the typical comparable sales/assessment grid analysis." The board of review further reported that contact was made with multiple counties and no one reported the sale of a similar structure; likewise a request for research in appraisals held by the Illinois Department of Revenue produced no comparable sales.

In support of its contention of the correct assessment, the board of review submitted numbered attachments, including the notes from the Township Assessor, a copy of the complaint filed at the board of review level, remarks on the appellant's appeal prepared by the board of review, and several different perspectives of an approach to value.

Attachment #1 consists of a memorandum along with the property record card for the subject. The memorandum reports during a discussion with the township assessor, the property owner "remarked that he believed the cost of the structure in debate to be \$60,000." Handwritten notes on the property record card also include: "90 units in IL with only 3 assessments in 3 counties; no concrete footer; does connect to electricity and water; has 3 year lease."

Attachment #2 consists of a memorandum and a copy of the assessment complaint filed before the Edgar County Board of Review. The memorandum asserts the original assessment argument concerned the fact that the "building" was portable and was not owned by the land owner. The memorandum also noted the appellant's opinion of the value of the entire subject property was stated as \$250,000.

Board of review Attachment #3 consists of a memorandum and page one of the Commercial Appeal petition in this matter. The memorandum focuses on the appellant's claim with no change in the land assessment of the subject parcel of \$7,900 and a request for the improvement of \$15,000 (ice) for a total assessment of \$22,900 [*sic*]. The board of review contends this total assessment request is excessively low given the other improvements on the subject property such as the pole building and the concrete dock.³

Attachment #4 is entitled, "Arguments of Real Value vs. Portability" and consists of a memorandum, an FAQ internet printout from GrandIce.com and documentation from the City of Paris concerning a Building Permit issued regarding the installation of the ice house. In the memorandum, the board of review wrote, "The structure, a free standing ice vending house, is an 8 x 24 aluminum building that has been connected to city water and electricity. There is a concrete pad in the front of the house as well as concrete protection posts surrounding the house." After noting the definition of real property, the board of review contended that removing the concrete, the posts or any plumbing would cause injury to the land and "is certainly an undertaking to complete these tasks, versus moving a portable shed from one side of the yard to another!"

³ The Property Tax Appeal Board recognizes that the appellant's request in the improvement assessment claim concerns only the disputed portion of the assessment related to the ice house and failed to account for the pole building and concrete dock for which no assessment disputes were raised.

The board of review further contended that an item that would generally be considered as personal property, such as machinery, is not considered to be real property "if it is not intended to remain at the site throughout its useful life." The board of review included no citation for the foregoing definition/interpretation of personal property in Illinois and asserted, "We believe this structure is constructed to remain in this spot for its entire useful life."⁴

Next, the board of review contended the subject structure has created a potential burden upon or liability for the various taxing districts involved. "These districts, which may include fire protection or law enforcement, may be affected financially if utilizing resources to attend to a problem, such as fire or vandalism."

Citing to the internet FAQ data from GrandIce.com, "Ice houses are built and anchored to withstand hurricane winds of up to 150 miles per hour." The board of review noted this would not be the case for a portable building.

Lastly, the city's code enforcement officer indicated the ice house would not have been allowed inside city limits if it were considered portable; a building permit was obtained in order to follow city codes. According to the officer, the ice house was reportedly anchored and the unit was set on a cinder block foundation.

Attachment #5 is a memorandum entitled, "Methods of determining value" which included ten separate pages from sources such as Marshall and Swift, e-bay and others. In this memorandum, the board of review reported valuation assistance was sought from the Illinois Department of Revenue and surrounding counties with no results. No ice vending units were set forth in the Marshall and Swift cost manual, but the board of review looked to the ATM structure in the cost manual and suggested values ranging from \$34,600 to \$38,800 for a fifty foot structure. A 100 foot structure had a range of values from \$38,800 to \$44,100. The board of review indicated that ATM costs would add \$25,800 to \$58,500.

Another alternative in the cost manual was "a simple Kiosk" ranging from \$5,100 to \$18,400 with substantial additional value for a refrigerated unit adding \$12,600 to \$31,500.

A listing on the internet for an Ice & Water Vending Machine on e-bay depicted an asking price of \$58,500. Data found on-line for the Bag of Ice Company depicted an item similar to the disputed ice vending unit that did not accept credit and debit cards; adding the water vending feature made for a base price ranging from \$60,900 to \$73,900. Another internet listing for Ice House America Company depicted costs for units ranging from \$23,000 to \$150,000.

Examining data from Grande Ice Company also allowed the board of review to perform an income approach to value based on gross average revenue per Ice House of \$68,000 with a 67% profit margin per year (this did not include income derived from the sale of dispensed water). Lastly, the internet site Unusual Investments depicted a \$20,000 to \$100,000 investment for the structure with an estimated profit generation of \$1,700 per month or \$20,400 per year which does not include profits from dispensed water. The memorandum next outlined speculation as to the profit to be gained from selling 50 one-gallon jugs of water per day or 50 five-gallon jugs of

⁴ The board of review did not address the fact that the ice unit has a three-year lease at this location.

water per day. While the board of review referred to this latter data as an income approach to value, there is no specific income approach outlined in the memorandum with expenses extracted from the market resulting in a concluded net operating income and/or a determination of an appropriate capitalization rate derived from the market.

Lastly, board of review Attachment #6 is entitled Summary and includes color photographs of the subject ice house both at ground level from several perspectives and aerial photography. In this final memorandum, the board of review wrote that the subject ice house is "permanently attached to the ground" and noted the basis for the original assessment appeal that the structure was portable and not owned by the land owner. "The Board of Review disproved the portability issue and argued taxes were something to be discussed between lessor and lessee."

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

Conclusion of Law

The questions posed in this appeal concern the 'installation' of an ice house which was a single contained unit trucked to the subject parcel as a complete unit/structure, placed on cinder blocks, anchored and has electric and water service hooked up to the ice house. The ice house operates as a vending machine of ice and water for paying customers.

As part of this appeal, the appellant implied a contention of law argument with respect to the assessment of the ice house as real estate. The appellant noted that the subject 'ice vending machine' is not permanently fastened to the ground and, given the lack of assessment of some other area comparable structures, should perhaps not be assessed as real estate. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under the Illinois Administrative Procedure Act by an agency shall be the preponderance of the evidence. (5 ILCS 100/10-15). The rules of the Property Tax Appeal Board do not provide for the standard of proof where a contention of law is raised; therefore, the standard of proof with respect to this argument is a preponderance of the evidence.

Illinois' system of assessing and taxing real property is founded on the Property Tax Code. (35 ILCS 200/1-1 et seq.). Section 1-130 of the Property Tax Code defines real property in part as:

The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon (35 ILCS 200/1-130.

The court in Ayrshire Coal Co. v. Property Tax Appeal Board, 19 Ill.App.3d 41, 45, 310 N.E. 2d 667, 671 (3rd Dist. 1974) noted that:

A building has been defined as a fabric, structure or edifice, such as a house, church, shop, or the like designed for the habitation of men or animals **or for the shelter of property**. (Citation omitted.) [Emphasis added.]

The court also stated:

A structure has been defined in the broad sense as any construction or piece of work composed of parts joined together in some definite manner. Any form or arrangement of building or construction materials involving the necessity or precaution of providing proper support, bracing, tying, anchoring, or other protection against the pressure of the elements. *Id.* At 45.

In the case of In re Hutchens, 34 Ill.App.3d 1039, 341 N.E.2d 169 (4th Dist. 1976), a cabin was purchased by a lessee and transported to a leased site where it was set up on pillars of concrete blocks and shimmed up with shingles with the provision of the lease for plumbing connections between the cabin, septic tank and a well. The trial court determined the cabin was sufficiently attached to the land to 'have become part of it.' The Appellate Court of Illinois, Fourth District, found that the trial court's finding that the cabin was part of the real estate was not contrary to the manifest weight of the evidence even though the cabin could be removed without substantial damage to the land and even though the lessee had the right to do that.

In accordance with these precepts, the Property Tax Appeal Board finds the ice house in this appeal is real property as defined in the Property Tax Code subject to real estate assessment and taxation. The structure is composed of steel framing, flooring and a membrane roof covering. The unit was placed on cinder blocks and anchored to the ground. The structure shelters the machinery that produces the ice and water that is dispensed to patrons to the unit.

Nothing in the record evidence suggests that the interior components of the ice house are assessable as real property under the Code. The board of review appeared to agree in its Attachment #5 memorandum that the interior components of the ice house are not assessable. The Edgar County Board of Review analogized the subject to an ATM structure in Attachment #5; "this pricing includes steel frame construction, membrane roof, welded glass and appropriate floor and ceiling finishes." The board of review made no mention of the "interior" machinery of the ATM structure that performs banking transactions for patrons.

As part of this appeal, the appellant also contends the market value of the subject property, the ice house 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 appellant provided data that the value of the ice house structure consisting of the frame, floor, walls, door and roof was \$15,000 (Appellant's Exhibit #1). The board of review submitted documentation and set forth several varying estimates of the market value of an ice house like the subject with estimates as high as \$150,000, however, each of those estimates involved purchase or acquisition of the entire ice house as a complete, functional unit. The Property Tax Appeal Board finds under the principles of the Freeze Act that the interior components of the ice house unit are not assessable real property under the Code. As such, on this limited record, the Property Tax Appeal Board finds the best evidence of market value concerning the subject disputed ice house unit was presented by the appellant in the form of a cost estimate of \$15,000

from the supplier of the machine (Appellant's Exhibit #1) for the "exterior components" of the unit consisting solely of the frame, floor, walls, door and roof. As established by the Edgar County Board of Review, the subject ice house has an assessment reflecting a market value of \$50,000, which is above the best market value evidence in this record consisting of appellant's Exhibit #1.

Based on this record the Board finds the appellant established by a preponderance of the evidence that the subject ice house was overvalued and a reduction in the subject's assessment is justified.

Additionally, the appellant contends a lack of uniformity as a basis of the appeal. 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). 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 evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds a reduction is not warranted on this basis.

As part of this appeal, the appellant presented five suggested equity comparables. The Edgar County Board of Review did not present any equity evidence in its submission and did not dispute the assertions made by the appellant in the appellant's equity presentation. In examining the five suggested comparable properties, the Property Tax Appeal Board has given no weight to comparables #1 and #2 as these comparables are not located within Edgar County.

As stated by the Supreme Court of Illinois in Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228, 692 N.E.2d 260, 229 Ill. Dec. 487 (1998):

The Illinois property tax scheme is grounded in article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes "shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." (*Citation omitted.*) Uniformity requires equality in the burden of taxation. (*Citation omitted.*) This, in turn, requires equality of taxation in proportion to the value of the property taxed. (*Citation omitted.*) Thus, taxing officials may not value the same kinds of properties within the same taxing boundary at different proportions of their true value. (*Citation omitted.*)

Walsh, 181 Ill.2d at 234.

The unrefuted record evidence was that appellant's comparable #3 consisting of a shed building with electricity that operates as an ice cream stand has not been assessed and appellant's comparable #4 consisting of two money vending machines at a car wash facility have not been assessed. In contrast, the appellant's evidence also established that comparable #5, consisting of an ATM structure, has been assessed by the assessing officials.

In this appeal the Board finds the appellant did not submit comparables that were truly similar to the subject, but the board of review acknowledged in its filing that "the rarity of the structure" has made it difficult to set forth typical comparables. On this limited record, comparables #3 and #4 have similarities to the subject disputed structure only in that each comparable is attached to the respective parcel and has electric service. While both comparables #3 and #4 have not been assessed according to the records of the assessing officials, a somewhat analogous ATM structure located within the jurisdiction has been assessed by the assessing officials. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject ice house property was being inequitably assessed.

On this record, the Board finds the evidence did not demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction with respect to the assessment of such singular structures in the jurisdiction. Therefore, based on this record with the example of two structures that were not assessed, the appellant did not demonstrate with clear and convincing evidence that the subject ice house was being inequitably assessed and a reduction in the subject's assessment is not justified on that basis.

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: February 18, 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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