FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: William Cunha
DOCKET NO.: 17-01307.001-R-1 through 17-01307.019-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are William Cunha, the appellant; and the Will 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 **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
17-01307.001-R-1	23-15-04-409-032-0000	2,683	0	$2,683
17-01307.002-R-1	23-15-04-409-037-0000	2,724	0	$2,724
17-01307.003-R-1	23-15-04-409-038-0000	2,705	0	$2,705
17-01307.004-R-1	23-15-04-409-039-0000	3,056	0	$3,056
17-01307.005-R-1	23-15-04-409-040-0000	4,782	0	$4,782
17-01307.006-R-1	23-15-04-410-056-0000	3,244	0	$3,244
17-01307.007-R-1	23-15-04-410-055-0000	6,131	0	$6,131
17-01307.008-R-1	23-15-04-410-054-0000	3,849	0	$3,849
17-01307.009-R-1	23-15-04-410-053-0000	3,174	0	$3,174
17-01307.010-R-1	23-15-04-410-052-0000	3,562	0	$3,562
17-01307.011-R-1	23-15-04-410-051-0000	3,974	0	$3,974
17-01307.012-R-1	23-15-04-408-039-0000	2,950	0	$2,950
17-01307.013-R-1	23-15-04-408-040-0000	2,960	0	$2,960
17-01307.014-R-1	23-15-04-408-041-0000	2,914	0	$2,914
17-01307.015-R-1	23-15-04-409-036-0000	2,712	0	$2,712
17-01307.016-R-1	23-15-04-409-035-0000	2,708	0	$2,708
17-01307.017-R-1	23-15-04-409-034-0000	2,701	0	$2,701
17-01307.018-R-1	23-15-04-409-033-0000	2,703	0	$2,703
17-01307.019-R-1	23-15-04-408-038-0000	2,857	0	$2,857

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the

assessment for the 2017 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 properties consist of 19 subdivided adjacent lots, none of which have improvements on them. The lots are serviced by city water and sewer and meet the minimum number of frontage feet required by the local ordinance to be buildable. The parcels range in size from 8,942 to 20,438 square feet with a total combined area of 207,938 square feet or 4.77 acres. The subject parcels are located in Deer Meadows Subdivision, Homer Glen, Homer Township, Will County.

The appellant, William Cunha, appeared before the Property Tax Appeal Board claiming overvaluation and assessment inequity as the bases of the appeal. In support of the overvaluation argument, the appellant submitted evidence disclosing the subject property was purchased in December 2013 for a price of $39,000. The appellant completed Section IV – Recent Sale Data of the residential appeal form disclosing the sale price, seller's name, real estate agent's name, that this was not a transfer between family or related corporations, and that the property was advertised for sale for 398 days through the Multiple Listing Service. The appellant also submitted a copy of the Special Warranty Deed and the Settlement Statement as evidence of the purchase of the 19 parcels. On the petition, the appellant described the subject parcels as ranging in size from 8,942 to 20,438 square feet of land area with assessments ranging from $3,660 to $8,755 or from $.39 to $.45 per square foot of land area.

In support of the assessment inequity argument, the appellant submitted a grid analysis on three comparable properties located in the same neighborhood code as the subject lots. One comparable consists of a single lot and the other two comparables consist of multiple adjacent parcels purported to be owned by the same owner, as are the subject properties. In addition, the appellant submitted aerial and ground level photographs depicting the entire subdivision including the subject properties as well as the comparable properties. Also, the appellant submitted plat maps of all aforementioned properties. Finally, the appellant submitted a brief in support of his overvaluation argument which shows that comparable #1 was assessed from 2013 through 2016 at the same lower rate ($.13 per square foot of land area compared to subject's $.42 per square foot) as the parcels which make up comparables #2 and #3.

Cunha testified before the Property Tax Appeal Board that his 19 lots are not "buildable" in their current state unless further infrastructure and upgrades are made to the parcels. Cunha testified that although the 19 parcels are subdivided and have water and sewer, none of the 19 parcels have a road base, road access, site-grading for drainage, curbs, pavement or street lighting. Without these upgrades to the sites, Cunha testified that no building permit would be issued for construction of improvements.

Cunha further testified that comparable #1 is a single vacant lot adjacent to his 19 parcels. This parcel was assessed at $.13 per square foot of land area compared to appellant's lots which are assessed at approximately $.41 per square foot of land area. Cunha stated that after he brought this to the assessor's attention, the township assessor increased the assessment of comparable #1 parcel to approximately $.42 per square foot of land area and, simultaneously, lowered the

improvement assessment of the dwelling adjacent to comparable #1 (which is owned by the same taxpayer) resulting in no net effect on that owner's overall tax burden for the two adjacent properties combined. The three comparables range in total size of combined lots from 15,112 to 129,027 square feet of land area. Cunha testified that the three comparables have either city water or sewer but not both. The comparables have land assessments ranging from $2,021 to $15,545 or from $.11 to $.13 per square foot of land area. Based on this evidence, the appellant requested a reduction in the land assessment to approximately $.12 per square foot of land area for each of the 19 parcels.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the 19 subject parcels combined of $86,985 or $.42 per square foot of land area.[1]

In support of the subject's assessment, the board of review submitted a brief prepared by Crete Township Assessor, Mary Tamez, contending that appellant's comparables are not similar to the subject lots in that they are much smaller individual lots that are not buildable because they do not have the required frontage to meet the local zoning requirement. Tamez testified before the Property Tax Appeal Board on behalf of Crete Township that appellant's comparable #1 is the only unimproved parcel in the Deer Meadows subdivision other than the subject parcels. Tamez testified that comparable #1 is owned by the same individual as an adjacent lot which has an improvement on it. Tamez stated that this vacant lot's assessment was determined to be under-assessed and was adjusted in 2017 along with the remaining properties on the street perpendicular to comparable #1 which are all improved, unlike comparable #1.[2] Consequently, comparable #1 vacant parcel's assessment was increased from $.13 to $.42 per square foot of land area. The improved properties on the aforementioned street were similarly increased to $1.02 per square foot of land area. Tamez stated that the parcels with improvements on them justified the higher price per square foot of land area. As to appellant's comparables #2 and #3, Tamez noted that these parcels were platted in 1920's for the purpose of giving these lots to members of the county club. Tamez testified that comparable #2 and #3 consist of parcels that are smaller lots, they don't meet the minimum frontage requirements to be buildable, and, consequently, they are less desirable and marketable than the subject parcels. Tamez testified that contrary to the appellant's comparable lots, the subject lots were platted in 2007 and meet the frontage requirement to be buildable and are therefore more marketable. As a result, Tamez testified that the subject parcels are superior to the appellant's comparable parcels and justify the much higher assessments than the subject parcels. Tamez also noted that appellant's comparable parcels each have city water or sewer, but not both, in contrast to the subject parcels which have both city water and sewer.

Based on this evidence, the board of review requested confirmation of the subject parcels' assessments.

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[1] In his petition, the appellant described the combined square footage of all 19 parcels as being 242,931 or $.36 per square foot of land area. However, the Board has calculated the total square footage of the 19 parcels combined to be 207,958 or $.42 per square foot of land area.

[2] The photographs in evidence depict that the subject parcels and the adjacent comparable #1 are located along a platted "street" but the street is not currently constructed. Comparable #1 is also adjacent on the opposite side to a corner parcel which is improved and owned by the same taxpayer. The improved properties that were re-assessed per Tamez's testimony are located along the street where the corner (improved) property is situated, not the platted "street" on which comparable #1 is situated.

In rebuttal, Cunha testified that both the subject parcels and the comparables are all unbuildable in their present state. However, the comparable parcels could be made "buildable" more easily due to their infrastructure that is already in place, i.e., roads, curbs, street lighting and site grading. As to the minimum frontage requirement, Cunha argued that the common owner of these parcels can combine two parcels into one which the appellant has done in the past. Cunha submitted into evidence a letter entitled "Will County Supervisor of Assessments Forms to be filled out to Divide or Consolidate Land" [*sic*] which states that the only requirement for consolidation is that the adjoining lots be owned by the same owner which the comparables meet. Cunha argued that combining two comparable parcels would be similar in size to one of the subject parcels but would be assessed at approximately one-half that of the subject parcels. Lastly, Cunha argued that both the comparable lots as well as the subject lots are unbuildable in their current state and, therefore, should be similarly assessed.

Conclusion of Law

As an initial matter, the appellant contends the market values of the 19 subject lots are not accurately reflected in their assessed valuations. 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 gave less weight to the sale of the subject lots due to the sale being in December 2013 and, therefore, too remote in time from the subject's assessment date of January 1, 2017 to be an accurate indication of market value. Consequently, the Board finds that the appellant did not prove by a preponderance of the evidence that the subject lots are over-assessed based on this argument.

The appellant also contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the only evidence of assessment equity contained in this record is the appellant's three comparable properties. Two of the appellant's comparables consist of multiple adjacent lots located in the same neighborhood code as the subject and are unbuildable in their current state, similar to the subject parcels; the subject parcels need infrastructure such as roads, drainage grading, curbs, etc. whereas the comparable parcels need to be combined two lots into one in order to meet the minimum frontage required by the local ordinance. The Board finds that given the subject parcels' larger sizes when compared to the comparable parcels #2 and #3, a somewhat higher assessment is justified. However, given that two parcels combined would be assessed approximately one half that of the subject parcels, the Board finds that the subject parcels are overvalued in their current state. Furthermore, comparable #1, which is

approximately the same size and adjacent to the subject parcels, was assessed from 2013 through 2016 at the same lower rate ($.13 per square foot of land area compared to subject's $.42 per square foot) as the parcels which make up comparables #2 and #3 which diminishes the board of review argument that the subject's parcels are much more marketable than the comparable parcels. The comparables have combined land assessments for all lots ranging from $2,021 to $15,545 or from $.11 to $.13 per square foot of land area. The subject's total assessment for the 19 parcels of $86,985 or approximately $.42 per square foot of land area seems excessive given the similarities between the subject and the comparable parcels.[3] The parties agree that all the lots in this record appear to be unbuildable. The Board finds unpersuasive the board of review's argument that appellant's comparables are more "unbuildable" than the subject lots due to lacking frontage requirement in light of the above analysis. After adjusting for the smaller size of the comparable lots in relation to the subject lots, the Board finds that the appellant has met his burden of proof by clear and convincing evidence that the subject lots are inequitably assessed and some reduction in their assessments is warranted.

[3] The Board acknowledges that the subject parcels have water and sewer connection whereas the comparable parcels have one or the other but not both, which is inferior to the subject; however, this is offset by the comparables having some established infrastructure which is superior to the which the subject parcels which do not have any infrastructure other than water and sewer. The Board finds that in terms of location and condition of the subject parcels compared to the only comparables in this record, they are similar.

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:

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: September 17, 2019

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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