



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

APPELLANT: Marino Realty, LLC
DOCKET NO.: 18-05546.001-R-1
PARCEL NO.: 12-31-376-040

The parties of record before the Property Tax Appeal Board are Marino Realty, LLC, the appellant, by attorney Ryan Schaeffges, of the Law Office of Ryan Schaeffges, P.C. in Wheeling; and the Winnebago 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 **Winnebago** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$15,761
IMPR.: \$92,257
TOTAL: \$108,018

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a 2017 Final Administrative Decision of the Property Tax Appeal Board pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) in order to challenge the assessment for the 2018 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 parties appeared before the Property Tax Appeal Board on March 21, 2022 for a virtual hearing by Webex video conferencing pursuant to prior written notice dated January 13, 2022. Upon inquiry at the commencement of the virtual hearing, neither party raised any objection to use of this virtual hearing format. Appearing virtually on behalf of the appellant was Ryan Schaeffges, the appellant's attorney, and appearing virtually on behalf of the Winnebago County Board of Review was Tom Ewing, board of review chairman, along with the board of review's witness appearing virtually, Michael Smith, a deputy assessor in Rockford Township.

For hearing purposes only, this appeal was consolidated with Property Tax Appeal Board Docket Nos. 18-05542, 18-05544, and 18-05545, which concern properties owned by the appellant. The "Apartment Buildings" refers collectively herein to the properties that are the subjects of these four appeals.

The subject property at 2690 Rudeen Close consists of a two-story apartment building of frame exterior construction with 7,322 square feet of gross building area. The building was constructed in 1994 and is approximately 24 years old. The building has 14 apartment units and a 13-vehicle carport. The property has a 37,489 square foot site and is located in Rockford, Rockford Township, Winnebago County.

As an initial matter at hearing, the Administrative Law Judge (ALJ) clarified the age and building size of the subject property with the parties. Schaeffges stated that the subject was built in 1994 and has 7,322 square feet of gross building area as disclosed in the subject's property record card presented by the board of review. The parties both confirmed that the subject has 14 units. Schaeffges clarified that one of the units is used as an office or showroom. Thus, the Board finds that the subject was built in 1994, has 7,322 square feet of gross building area, and 14 apartment units, which is depicted in the applicable property record card in this record.

The appellant contends assessment inequity concerning the improvement assessment as the basis of the appeal. In support of this argument the appellant submitted a Residential Appeal petition, together with a brief contending that the appellant's comparables demonstrate that larger apartment buildings are assessed lower than the subject property. The appellant asserted that the subject has smaller apartment units and generates less income than buildings with larger apartment units. The appellant further asserted that the subject has high turnover, resulting in more wear and tear on the building and making it comparable to older properties. The appellant stated that the subject is located in a less desirable location than the appellant's comparables.

The appellant's three page Section V – Assessment Grid Analysis presents 12 equity comparables¹ located from 200 feet to 23 blocks from the subject property. The parcels range in size from 11,375 to 39,336 square feet of land area. The comparables are improved with 1 to 3 one-story, two-story, or three-story apartment buildings of frame, brick and stone, or masonry and frame exterior construction ranging in size from 6,262 to 14,277 square feet of combined gross building area. The comparables each have a total number of apartment units ranging from 8 to 22 units,² with comparable #3 having 8 units per each of its two buildings, comparable #5 having 4 units per each of two buildings, comparable #8 having 4 units per each of its three buildings, and comparable #11 having 7 or 9 units per each of its two buildings.³ The comparables range in age from approximately 36 to 91 years old.⁴ Comparable #4 has two 4-car garages and comparable #9 has a detached garage. The comparables have improvement

¹ Although the appellant's brief referenced 10 equity comparables, the grid analysis contains 12 properties.

² The parties differ regarding the number of apartment units for several of the appellant's comparables and the number of units for comparable #4 is blank in the appellant's submission. Schaeffges asserted at hearing that this comparable has 11 units, which is consistent with the property record card presented by the board of review. The Board finds the best evidence of the number of units is found in the property record cards presented by the board of review, which was not refuted by the appellant.

³ Schaeffges clarified at hearing that the grid analysis shows the combined number of units of a comparable's buildings. The Board finds the best evidence of these comparables' units per building is found in their property record cards presented by the board of review, which was not refuted by the appellant.

⁴ The appellant appears to have mistakenly calculated the ages of the comparables based on the 2017 tax year rather than the 2018 tax year at issue in this appeal. The Board finds the best evidence of these comparables' ages is found in their property record cards presented by the board of review, which was not refuted by the appellant.

assessments ranging from \$59,529 to \$110,210, from \$5.10 to \$12.10 per square foot of gross building area, or from \$3,969 to \$9,184 per apartment unit.

At hearing, Schaeffges contended that the subject property is inequitably assessed compared to other multi-unit apartment buildings. He stated that the Apartment Buildings each have from 14 to 16 small apartments, consisting of 400 to 500 square feet each, with building sizes ranging from 7,200 to 7,600 square feet of gross building area. He further stated that the equalized market values for the Apartment Buildings are in the \$300,000s to low \$400,000s.

Schaeffges stated the appellant's comparables have from 10 to 18 apartment units with one comparable having two buildings with 8 units. Schaeffges reported the appellant's comparables have improvement assessments ranging from \$5.00 or \$6.00 to \$12.00 per square foot of gross building area, whereas the subject is assessed at approximately \$15.00 per square foot of gross building area. Schaeffges argued the differences in assessment are not justified by differences in building size. He asserted all of the appellant's comparables are located within 2 miles from the subject and some of these comparables have equalized market values under \$200,000, even though the comparable buildings are twice the size of the subject. Schaeffges contended the only other difference between the subject and the appellant's comparables is the subject's larger lot size, which is excess land that does not generate higher rents for the apartments.

Schaeffges argued the comparables' assessments do not appear to reflect market value. He contended that the appellant's comparable #4 has an equalized market value of less than \$300,000 but is currently listed for sale for \$750,000. Accordingly, because assessments do not appear to reflect market value, Schaeffges concluded that the subject's assessment cannot be challenged based on market value.

On cross-examination, Ewing asked Schaeffges whether land is included in a property's assessment. Schaeffges agreed that land is included in a property's assessment, but asserted that land value is not relevant to an equity argument concerning the improvement assessment.

Ewing asked Schaeffges how rents factor into a property's assessment. Schaeffges replied that rents are relevant to a property's market value.

Ewing asked how the appellant's comparable #1, which is 22 years older⁵ and has a much smaller lot, is similar to the subject. Schaeffges responded that the subject's units have high turnover and resulting wear and tear, making the subject similar to older comparables. Schaeffges characterized the age differences as negligible. Upon further questioning by Ewing, Schaeffges acknowledged that the age of a property is a factor in its assessment, but argued that the age differences between the subject and the appellant's comparables do not justify the sizeable differences in their improvement assessments.

Ewing asked whether Schaeffges had personally visited the subject to assess its condition. Schaeffges said he had not visited the subject property.

⁵ The Board recognizes that the parties appear to refer to age differences between the appellant's comparables and the oldest of the Apartment Buildings rather than the subject.

Ewing asked how the appellant's comparable #2, which is 26 years older and has a much smaller lot, is similar to the subject. Schaeffges reiterated the appellant's contention that the subject has high turnover and wear and tear, making it similar to an older building. Schaeffges argued that while a lower assessment due to age difference is to be expected, an improvement assessment of 40% to 50% less than the subject is not justified by the age difference.

Ewing asked Schaeffges whether age affects the cost and quality of construction. Schaeffges replied that construction costs are not relevant to an appeal based on assessment equity where the subject and the comparables are all established buildings.

Ewing inquired regarding age differences of 25, 27, and 23 years for the appellant's comparables #3, #5, and #6, respectively, which Schaeffges confirmed as accurate calculations. Schaeffges also confirmed that the appellant's comparable #4 is more than 50 years old. He further stated that the appellant's comparable #9 is only about 10 years older but has an assessment of 50% to 60% less than the subject. Ewing inquired regarding age differences of 27, 29, and 65 years for the appellant's comparables #10, #11, and #12, which Schaeffges also confirmed as accurate calculations. Schaeffges stated that the age difference between the appellant's comparables #11 and #12 is about 40 years but the older property has only a 10% lower assessment. Schaeffges clarified that he calculated the percentages presented in this hearing based on improvement assessments on a per square foot basis.

Ewing asked whether Schaeffges personally visited any of the appellant's comparables to assess the condition of those properties. Schaeffges said that he had not visited those properties.

The ALJ asked whether any of the other comparables were listed for sale or had recently sold. Schaeffges replied that none were currently listed or recently sold.

The ALJ asked for clarification regarding the square footage of the units in the Apartment Buildings. Schaeffges replied that the 14 unit building has mostly one bedroom units of 400 to 600 square feet and the 16 unit buildings have mostly studio or one bedroom units of about 450 square feet.

The ALJ asked whether any of the appellant's comparables have carports like the subject. Schaeffges replied that he did not have any information regarding covered parking at the comparables, but confirmed that the subject has a carport. He acknowledged that the subject's carport is part of its improvements considered for assessment purposes. He agreed that a property identical to the subject but without a carport would be assessed lower than the subject, but he argued that the subject's carport does not justify its much higher improvement assessment.

Based on this evidence the appellant requested a reduction in the subject's improvement assessment to \$50,577 or \$6.91 per square foot of gross building area or \$3,613 per apartment unit.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$127,770. The subject property has an improvement assessment of \$112,009 or \$15.30 per square foot of living area or \$8,001 per apartment unit.

In support of its contention of the correct assessment the board of review submitted a spreadsheet with limited information on four equity comparables, where comparable #4 is the same property as the appellant's comparable #9, together with "Assessor's Notes" presumably prepared by the township assessor's office, "Comments and Questions on Appellant's Evidence" also presumably prepared by the township assessor's office, and property record cards for the subject and both parties' comparables.

The board of review's four equity comparables are located on the same street as the subject property. The parcels range in size from 29,109 to 46,550 square feet of land area and are each improved with a two-story apartment building of frame or brick and stone exterior construction ranging in size from 7,286 to 9,342 square feet of gross building area. The buildings were built from 1982 to 1995 and each building has from 11 to 16 apartment units. The comparables have improvement assessments ranging from \$84,825 to \$116,650 or from \$9.08 to \$15.32 per square foot of gross building area or from \$6,977 to \$7,711 per apartment unit.

In the "Assessor's Notes," the township assessor described the board of review's comparables as located within the subject's "immediate neighborhood." The township assessor opined that the appellant did not use three of these properties as comparables because they are properties also owned by the appellant. The township assessor explained that the common comparable, the appellant's comparable #9/board of review's comparable #4, has an assessment that was recently reduced below the board of review's other comparables. The township assessor acknowledged that a reduction in the subject's improvement assessment was justified and recommended an offer to stipulate to a total assessment of \$123,988.

In the "Comments and Questions on Appellant's Evidence," the township assessor pointed out the differences between the appellant's comparables and the subject, such as age and lot size.⁶ The township assessor speculated that the appellant has "philosophical or other issues" with presenting properties owned by the appellant as comparables, despite the appellant's inclusion of the common comparable, which is also a property owned by the appellant.

The board of review also submitted a brief explaining that the parties agreed to a reduction in the subject's assessment for the 2017 tax year but "[i]n retrospect, the Board of Review now believes that the argument and evidence for the equity complaint was neither clear nor convincing." Consequently, the board of review stated that it revised the subject's assessment for the 2018 tax year.

At hearing, Ewing contended the board of review's four comparables support the subject's assessment. Ewing asserted these comparables are located on the same street as the subject and are very similar to the subject. He contended that he has been involved with the board of review for 11 years and has been involved in real estate for 42 years, specifically, real estate sales and property management of multi-family buildings.

⁶ The Board notes that this appeal is based on assessment inequity with respect to the improvement assessment, and thus, differences in lot size between the subject and the comparables is not at issue for purposes of the lack of uniformity argument.

The board of review called Smith as a witness. Smith testified that the subject property has 7,322 square feet of gross building area with 14 apartment units, has 37,489 square feet of land area, and was built in 1994. He stated that all of the comparables for this property are 11 to 16 unit buildings, with a median of 16 units; range in size from 7,286 to 9,342 square feet of gross building area, with a median of 7,648 square feet of gross building area; have parcels ranging in size from 29,109 to 46,550 square feet of land area, with a median of 45,841 square feet of land area; and were built from 1982 to 1995, with a median of 1994. Smith opined the subject is about 4% smaller than the median building size, 18% smaller than the median lot size, has 12.5% fewer units than the median, and is the same age as the median age.

Smith further testified that the subject property has a land assessment of \$0.42 per square foot of land area, an improvement assessment of \$15.30 per square foot of gross building area, a total assessment of \$17.45 per square foot of gross building area or \$9,126 per unit. Smith stated the comparables have land assessments ranging from \$0.39 to \$0.44 per square foot of land area, with a median of \$0.39 per square foot of land area; improvement assessments ranging from \$9.08 to \$15.32 per square foot of gross building area, with a median of \$15.19 per square foot of gross building area, and total assessments ranging from \$10.45 to \$17.78 per square foot of gross building area, with a median at \$17.56 per square foot of gross building area, or from \$8,097 to \$8,874 per unit, with a median of \$8,396 per unit. Smith concluded that the subject is about 7% above the median land assessment on a per square foot basis, “just under” 1% above the median improvement assessment on a per square foot basis, less than 1% below the median total assessment on a per square foot basis, and 9% above the median total assessment on a per unit basis. Smith contended that these percentages show that the subject is on the high end of the comparables, and consequently, he recommended a 3% reduction in subject’s total assessment.

On cross-examination, Schaeffges asked Smith whether other properties were considered as comparables. Smith responded that he chose properties most similar to the subject, regardless of ownership.

Schaeffges asked how the common comparable, which has a lower per square foot assessment than the subject, supports the subject’s higher square foot assessment. Smith testified that the board of review, not the assessor’s office, valued the common comparable. He further testified that he disagreed with the board of review’s valuation. Ewing explained that the common comparable has a lower per square foot assessment due to its larger building size, smaller lot size, fewer units, and older age. Ewing stated that its age, 11 years older than the subject, was an important factor in its lower assessment.

The ALJ asked Smith how the subject’s assessment was calculated. Smith explained that recent sales are used to value a property for assessment purposes.

The ALJ asked when the Apartment Buildings last sold. Schaeffges stated the most recent sale was the appellant’s purchase, which Smith confirmed occurred in April 2005. Smith testified that the subject’s assessment was not based on the April 2005 sale, but rather on sales occurring in 2015, 2016, and 2017. Smith advised he considered the sale prices per unit and the similarity of these sale properties to the subject. Smith said he had not prepared a list of sales used to value the subject for this hearing.

The ALJ inquired why the sales used by Smith to value the subject were not used as equity comparables. Smith reiterated that he used the most similar properties as equity comparables without considering recent sales.

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

In rebuttal at hearing, Schaeffges objected to the board of review's comparables #1, #2, and #3 as comparables because those properties are the subjects of appeals before the Board on the basis of inequitable assessment which were consolidated for purposes of hearing. Schaeffges argued that the use of comparables whose assessments are also being appealed facilitates arbitrary assessment as the properties could be used support each other's arbitrary assessments.

Schaeffges explained that the assessment of the common comparable, which is owned by the appellant, is not being challenged because it generates more rental income than the subject. He stated the common comparables is a larger building with larger apartment units and has a lower assessment than the subject. Schaeffges further clarified that the common comparable has covered parking like the subject.

In closing, Schaeffges argued that the appellant's comparables are similar to the subject and support a reduction in the subject's assessment. Ewing argued that the board of review's comparables are more similar to the subject than the appellant's comparables, and thus, the subject's assessment should be sustained.

Before concluding the hearing, the ALJ asked Ewing to clarify whether the board of review was seeking to sustain the subject's assessment or to reduce the subject's assessment in accordance with the recommendation of the township assessor's office. Schaeffges responded that the appellant rejects the amount proposed by the township assessor's office. Ewing said the board of review seeks a reduction of the subject's total assessment to \$123,988 as recommended by the township assessor's office.

Conclusion of Law

The appellant 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 record contains a total of 15 equity comparables, with one common comparable, for the Board's consideration. The Board gives less weight to the appellant's comparables #5, #8, #10, #11, and #12 due to significant differences from the subject in design, number of units, and/or building size.

The Board gives little weight to the board of review's comparables #1, #2, and #3, which are the subjects of assessment inequity appeals filed with the Board as Docket Nos. 18-05542, 18-05544, and 18-05545. The Board finds that comparing the subject property to similar comparable properties located in the subject's neighborhood that have received the same contested assessment would be self-validating to a uniformity argument. In Pace Realty Group, Inc. v. Property Tax Appeal Bd., the court held that the Board erred as a matter of law when it considered as a comparable a property that had received the same contested assessment as the subject. Pace Realty Group, Inc. v. Property Tax Appeal Bd., 306 Ill. App. 3d 718, 728 (2d Dist. 1999).

The Board finds the best evidence of assessment equity to be the appellant's comparables #1 through #4, #6, and #7 and the appellant's comparable #9/board of review's comparable #4, which are more similar to the subject in design, number of units, and building size, although these comparables are much older buildings than the subject. The appellant contended that the subject has an inferior location compared to the comparables and is similar to the older comparables due to high turnover and wear and tear; however, the appellant did not present any testimony or other evidence to support these contentions. Consequently, the Board finds that adjustments for age to the best comparables are necessary to make them more similar to the subject.

The best comparables have improvement assessments that range from \$60,353 to \$110,210 or from \$8.83 to \$12.10 per square foot of living area or from \$4,675 to \$9,184 per apartment unit. The subject's improvement assessment of \$112,009 or \$15.30 per square foot of living area or \$8,001 per apartment unit falls above the range established by the best comparables in terms of total improvement assessment and on a per square foot basis but within the range on a per apartment unit basis. Based on this record and after considering appropriate adjustments to the best comparables for differences when compared to the subject, the Board finds the appellant did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is justified.

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

May 17, 2022



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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