



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

APPELLANT: Fred Haller
DOCKET NO.: 20-07206.001-R-1
PARCEL NO.: 10-18-479-003

The parties of record before the Property Tax Appeal Board are Fred Haller, the appellant, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$3,330
IMPR.: \$1
TOTAL: \$3,331

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the McHenry County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2020 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 parcel of .18 of an acre or approximately 7,841 square foot site with 16 feet of waterfrontage and improved with a 100 year old “dilapidated” boathouse that has been assigned a minimal \$1 assessment. The subject property is situated on a lagoon and is located in Johnsburg, McHenry Township, McHenry County.

The appellant Fred Haller appeared before the Property Tax Appeal Board, along with his wife, making a contention of law as the basis of the appeal.¹ The appellant challenges the assessment placed on the land as the basis of the appeal; the improvement assessment was not challenged. The appellant contends that much of the subject parcel is often underwater as it lies within a

¹ Although the appellant also marked “contention of law” as a basis of the appeal, no brief was filed referencing any specific statutory provision(s) of the Property Tax Code applicable to the subject property.

flood plain and is subject to the authority of the Army Corp of Engineers. When a contention of law is raised the burden of proof is a preponderance of the evidence. (See 5 ILCS 100/10-15).

In the written submission and at the hearing the appellant contends the subject parcel is not accessible other than by the neighboring parcel owned by the appellant and that the subject parcel is not buildable because it lies within a flood plain. As such, the appellant contends that the land has no value and instead is a liability for purposes of clean-up and/or needs authorization from the Army Corp of Engineers to work on the parcel as there is a drainage pipe for the surrounding houses that terminates in the boathouse.

The appellant testified that both the boathouse and the seawall are in serious neglect as shown in photographs which the appellant included with the appeal petition and which are further shown in the photographs taken by the assessing officials. In the course of the hearing, the pro se appellant requested and the board of review agreed to the submission of 16 pages of color photographs to be included in the record which were marked for identification as BOR Hearing Exhibit #1. Pages 1 through 7 concern the instant appeal; the remaining pages concern an adjoining parcel owned by the appellant but which is the subject matter of a separate pending appeal known as Docket No. 20-07205 involving a separate parcel adjoining the subject and improved with a residence.

The appellant contends that at the time the assessing officials photographed the area of this parcel, the seawall was ready to collapse. Haller further testified that the portion of the seawall that had collapsed is obstructed by plant growth in the top color photograph contained in BOR Hearing Exhibit #1, p. 3.

When questioned by the Administrative Law Judge about the appellant's evidence contending the subject property was unbuildable and/or was situated in a floodplain, the appellant acknowledged that he had not supplied any such documentation.

Based on the foregoing contentions, the appellant requested that the subject's land assessment be reduced to \$1.

The board of review appeared by member Cliff Houghton. The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$3,331. The subject's assessment reflects a market value of \$9,985 or \$1.27 per square foot of land area, including the boathouse, when using the 2020 three year average median level of assessment for McHenry County of 33.36% as determined by the Illinois Department of Revenue.

At hearing, Houghton noted that the subject parcel was reduced substantially in both its land and improvement assessments from its original assessment determination by the township assessor of \$15,357 for the land and \$3,789 for the boathouse.

At hearing, the board of review called Mary Mahady, McHenry Township Assessor, as its witness in support of the documentation she prepared in response to the appeal. The majority of the data submitted in response to this appeal concerns the appealed parcel that is contained in Docket No. 20-07205, not this smaller parcel that is the subject matter of this appeal.

Mahady testified that the subject parcel has 16 feet of water frontage with the boathouse also situated on the parcel. Given the condition of the boathouse, it was given a nominal assessment of \$1. The township assessor testified that assessments of waterfront parcels are based upon waterfrontage. The standard waterfront assessment in the township is \$846 per front foot. However, the subject parcel was assessed at less than 25% of the typical waterfront assessment or at approximately \$208 per front foot for a land assessment of \$3,330.

The board of review grid analysis set forth five comparable parcels that are each improved with dwellings. The grid depicts that the parcels each have waterfrontage ranging in size from 105 feet to 140 feet with reported land assessments ranging from \$63,837 to \$160,609 or from \$502.65 to \$1,147.21 per front foot.

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

Conclusion of Law

Initially the appellant raises a contention of law with respect to the assessment of the subject parcel in essence contending that it has no value because it floods, is controlled by the Army Corp of Engineers and/or in "unbuildable." 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 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 ILCS200/1-130).

The appellant provided no statutory citation to support that the subject's land assessment was erroneous. While the appellant argued that the subject parcel is mostly underwater, not "buildable" and controlled in its use by the Army Corp of Engineers, there was no documentation to support these assertions. Furthermore, to the extent that the appellant is arguing that these conditions reduce the estimated market value of the subject parcel, the appellant provided no comparable land values to support an assertion that the subject was overvalued.

With regard to the land under water, the appellant contends the acreage should be valued at a lesser rate of value than dry ground. The Board finds the appellant submitted no substantive evidence to support this assertion or any evidence that clearly shows the acreage under water decreases the subject's market value. In Lake County Board of Review v. Property Tax Appeal Board, 91 Ill.App.3d 117, 414 N.E.2d 173, (2nd Dist. 1980) property owners argued underwater property had no value for tax assessment purposes due to a reverter clause in the deed. The Court held that the reverter clause made it unlikely that anyone would be interested in purchasing the property at any price did not sustain finding that such underwater property had no taxable

value. The Court further held that "[A]ll property in Illinois is subject to taxation unless specifically exempted." Additionally, the Court held that "Land" has been defined as meaning "not only the soil or earth but also things of a permanent nature affixed thereto or found thereon, [such] as water . . ." (Black's law Dictionary 1019 (4th ed. 1968)), and it has been held to include lakes, streams, and submerged property. Slayton Gun Club v. Town of Shetek, Murray County 286 Minn. 461, 176 N.W.2d 544 (1970). All real Property in Illinois is assessed according to its "fair cash value", which has been held to mean "what a property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do." Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 430, 256, N.E. 2d 3334, 336 (1970).

Furthermore, Section 9-145(a) of the Property Tax Code provides that for the purposes of taxation, [e]ach lot or tract of property shall be valued at 33 1/3% of its fair cash value. (35 ILCS 200/9-145(a)). Additionally, Section 1-130 of the Property Tax Code defines Property; real property; real estate; land; tract; or lot as the land itself, with all things contained therein . . .and all rights and privileges belonging or pertaining thereto, except where otherwise specified by this Code. (35 ILCS 200/1-130). Based on the aforementioned case law and statutes, the Board finds the acreage located on the subject is assessable. Moreover, the Board finds the appellant failed to show the subject's land assessment is incorrect.

Finally, looking to the only land valuation data in the record, it was the board of review that provided a grid analysis of five properties that are each improved with dwellings. The board of review grid depicts that the five parcels each have waterfrontage ranging in size from 105 feet to 140 feet with reported land assessments ranging from \$63,837 to \$160,609 or from \$502.65 to \$1,147.21 per front foot. In contrast, the subject parcel has a land assessment of \$3,330 or \$208 per front foot which is significantly below the assessments of the only waterfront comparable parcels in this record. In conclusion, the Board finds that the appellant failed to establish a reduction in the subject's land assessment is warranted based on a preponderance of the evidence.

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: June 27, 2023



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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