



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

APPELLANT: Ursa Farmers Co-Operative Co.
DOCKET NO.: 21-02981.001-C-3
PARCEL NO.: 03-0-0280-002-00

The parties of record before the Property Tax Appeal Board are Ursa Farmers Co-Operative Co., the appellant, by attorneys Natalie Oswald, of Schmiedeskamp Robertson Neu & Mitchell LLP in Quincy and Patrick J. Cullerton, of Thompson Coburn LLP; the Adams County Board of Review, by attorney Christopher E. Sherer, of Giffin, Winning, Cohen & Bodewes, P.C.; and the Central C.U.S.D. # 3, intervenor, by attorney James W. Chipman, of Golan Christie Taglia, LLP in Springfield.

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

| | |
|---------------|-------------|
| LAND: | \$42,194 |
| IMPR.: | \$3,801,580 |
| TOTAL: | \$3,843,774 |

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Adams County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2021 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Pre-Hearing Motions

The parties appeared before the Property Tax Appeal Board on August 17, 2023 for a hearing at the Property Tax Appeal Board's office in Springfield pursuant to prior written notice dated July 24, 2023.¹ Appearing at the hearing on behalf of the appellant were attorneys, Natalie Oswald and Delmer Mitchell, both of Schmiedeskamp Robertson Neu & Mitchell LLP, and Patrick J.

¹ This hearing was originally scheduled to occur on August 17, 2023 at the Adams County Board of Review's office in Quincy pursuant to prior written notice dated June 27, 2023, but the hearing was moved to the Board's office in Springfield after notice from the board of review that its office was no longer available for the August 17, 2023 hearing. References to the transcript of the hearing will be indicated by "TR" followed by the page number(s).

Cullerton of Thompson Coburn LLP; appearing on behalf of the Adams County Board of Review was attorney Christopher E. Sherer, of Giffin, Winning, Cohen & Bodewes, P.C.; and appearing on behalf of the intervenor was James W. Chipman, of Golan Christie Taglia, LLP.

Appellant's Motion to Exclude Witnesses

Before opening statements, the appellant moved to exclude witnesses who are not presently testifying from the hearing, arguing that witnesses are routinely excluded in order to prevent them from being influenced by each other's testimony. The board of review objected to the exclusion of its witness, Kelly Thompson, Deputy Supervisor of Assessments, on the grounds that Ms. Thompson is present as the representative of the board of review. The intervenor objected to the exclusion of witnesses on the basis that the appellant had not shown cause why they should be excluded. In light of the nature of this appeal and the evidence of record, the Administrative Law Judge ("ALJ") found it was unlikely that the witnesses would be influenced by each other's testimony in this case and denied the appellant's motion over the objections of the other parties. (TR p. 6-9). Furthermore, given that Thompson was designated as the representative of the board of review by its attorney and Hugenberg was present as a representative of the appellant, the ALJ found it would not be appropriate to exclude these two witnesses.

Intervenor's Motion to Bar Testimony

The intervenor renewed its May 31, 2023 written motion to bar the appellant's disclosed witness, Roger Hugenberg, due to the appellant's disclosure of this witness 31 days after service of the request rather than within 30 days as provided in Section 1910.93 of the Board's procedural rules (86 Ill. Admin. Code § 1910.93). The board of review joined in the intervenor's motion. In written response to the intervenor's motion, the appellant acknowledged its disclosure was not made within 30 days, but argued the 30 day filing provision of Section 1910.93 is not mandatory given the legislative intent that the Board's hearing procedures be informal. The appellant further argued no prejudice was raised by the other parties.

After review of the motion, response, and arguments presented by the parties, the Board finds the appellant's disclosure was made 31 days after the board of review's request and was untimely under Section 1910.93. Nonetheless, the Board finds barring Hugenberg as a witness in this case is not an appropriate sanction. In determining whether barring a witness's testimony is an appropriate sanction for nondisclosure of a witness, Illinois courts consider whether there is surprise or prejudice to the other party, the nature of the testimony, the other party's diligence and timeliness of objection, and the good faith of the party offering the testimony. Smith v. Murphy, 2013 IL App (1st) 121839, P25 (citing Sullivan v. Edward Hospital, 209 Ill. 2d 100, 110, 806 N.E.2d 645, 282 Ill. Dec. 348 (Ill. 2004)). The Board finds these considerations weigh in favor of allowing this witness. Neither the board of review nor the intervenor argued any surprise or prejudice resulting from the appellant's one-day-late witness disclosure, which was made more than two months before a hearing was scheduled in this appeal. Moreover, neither the board of review nor the intervenor argued that the appellant's witness disclosure was not made in good faith. Accordingly, the Board denies the intervenor's motion to bar Hugenberg as a witness.

Board of Review's Motion to Bar

The board of review renewed its May 10, 2023 written motion, filed pursuant to Section 1910.93, to bar any non-disclosed witnesses of the appellant from testifying and to limit Hugenberg's testimony to "the property characteristics, as well as the characteristics of comparable grain handling facilities" which were described by the appellant in its disclosure. In written response, the appellant provided additional details regarding Hugenberg's qualifications and identified Hugenberg as an expert witness. In written reply, the board of review argued Section 1910.93 required the appellant to disclose Hugenberg as an expert, together with his qualifications, in its disclosure.

At hearing, the ALJ asked the board of review to raise any objections regarding the scope of Hugenberg's testimony during the hearing. (TR p. 10-11). Objections made during the hearing are addressed below.

With regard to the disclosure of Hugenberg as an expert, the Board finds the appellant's witness disclosure did not identify Hugenberg as an expert witness. However, the Board finds this lack of identification is irrelevant as the appellant did not seek to qualify Hugenberg as an expert during this hearing. Additionally, the Board finds the board of review's request to bar non-disclosed witnesses is moot as the appellant did not seek to call any witness other than Hugenberg.

Appellant's Motion to Compel Witness

At hearing, the appellant asked the ALJ to compel Hugenberg to testify as a witness. See 86 Ill. Admin. Code § 1910.67(h)(1)(F). The ALJ denied this motion given that Hugenberg's testimony would be allowed as an offer of proof pending a ruling on the intervenor's motion to bar this witness. (TR p. 11-12). The ALJ declined to permit the appellant to avoid a ruling on the intervenor's motion by its motion to compel this witness.

Findings of Fact

The subject property consists of a grain storage facility that was constructed in 2020. Features of the facility include two grain bins each having a diameter of 135 feet and an eave height of 107 feet, two grain bins each having a diameter of 36 feet and an eave height of 64 feet, a grain dryer, two scales, a 2,079 square foot metal dump building over two dump pits,² and a 7,380 square foot metal building, containing 3,780 square feet of office area and 3,600 square feet of warehouse area. The property has a 15.81 acre site and is located in Camp Point, Camp Point Township, Adams County.

Appellant's Evidence

The appellant contends assessment inequity concerning both the land and the improvement assessments as the basis of the appeal. In support of this argument the appellant submitted a brief contending that grain elevators are valued for sale purposes on a price per bushel basis and

² Hugenberg testified the dump building covers the subject's two dump pits. (TR p. 102-04).

that this method should be used to value the subject for assessment purposes. The appellant argued the subject has been assessed for the 2021 tax year at \$4.13 per bushel, which is higher than similar properties having an average of \$1.52 per bushel. The appellant concluded the subject should be valued for assessment purposes at \$1.59 per bushel, which would reflect a fair cash value of \$4,510,200 and a total assessment of \$1,502,400. The appellant further contended a calculation of the subject's value using the cost schedules of the Illinois Department of Revenue's Publication 126 supports a reduction in the subject's assessment.

In support of the average price per bushel computed by the appellant, the appellant submitted a table entitled "Comparable Sales" reporting six sales in counties other than Adams County with prices from \$0.92 to \$1.87 per bushel and an average of \$1.39 per bushel. The appellant also calculated prices for six of its comparables ranging from \$1.10 to \$2.50 per bushel based on the indicated market values reflected by their assessments.³

The appellant also submitted a table entitled "Evaluation of Assessment" itemizing its requested improvement assessment. Using Publication 126, the appellant computed the cost of the two larger grain bins at \$1,909,400 each, which would result in an assessed value of \$636,467 each when applying the statutory level of assessment of 33.33%. In the appeal, the appellant requested an assessed value of \$545,600 for each of the larger grain bins. The appellant computed the cost of the two smaller grain bins at \$134,300 each, which would result in an assessed value of \$44,767 each. In the appeal, the appellant requested an assessed value of \$45,110 for each of the smaller grain bins. The appellant placed a zero value for the two scales, asserting they are non-assessable personal property, but did not dispute the assessed values for the grain dryer and office building. The appellant included a copy of Section E of Publication 126, which provides assistance in estimating the replacement cost new of a grain elevator facility, including components such as dump pits, legs, grain dryers, scales, and conveyers.

At hearing, the appellant argued the subject is similar to the comparables as they are all inland grain elevator properties that are not located on a river or railway and are located within the same competitive regional market. The appellant asserted these properties can be compared on a per bushel basis, which demonstrates the subject is assessed higher than the comparables on a per bushel basis. The appellant argued the county records lack bushel capacity information for some properties, which indicates these properties are being assessed differently from others. The appellant contended the subject is not unique and is not the largest grain elevator in Adams County. The appellant disagreed with Adams County's assessment of process-related machinery and equipment, including grain elevator legs and dryers,⁴ but acknowledged that the total costs for the subject facility exceeded \$12,900,000, including costs for machinery and equipment. The appellant argued costs are not the same as market value. (TR p. 13-21).

³ The Board gives no weight to this evidence of comparable sales as these properties are not the same equity comparables presented by the appellant. Moreover, the record lacks sufficient descriptive data regarding these properties for a meaningful comparative analysis with the subject.

⁴ The intervenor objected to this argument for lacking evidentiary support. (TR p. 19). The appellant acknowledged the March 15, 2023 ruling letter of the Board, in which the Board found this appeal is based solely on assessment inequity. In light of this ruling, the ALJ directed the appellant to proceed with its opening statement.

The appellant submitted information regarding eight equity comparables.⁵ At hearing, the appellant asked that comparable #7 be withdrawn, to which the other parties had no objection. (TR p. 82-83). Accordingly, the Board shall not further consider comparable #7.

The remaining seven comparables are located from 5.2 to 29 miles from the subject and are situated in La Prairie, Golden, Clayton, Paloma, Liberty, Carthage, and Quincy. Comparable #6 is the only comparable not located in Adams County. The parcels range in size from 1.636 to 14.913 acres of land and are improved with grain elevator facilities. Each comparable has scales, 4 to 69 grain bins that were built from 1950 to 2021, and one or more other improvements, such as office buildings, warehouses, other buildings, legs, overheads, and/or grain dryers. Comparables #1, #3, #5, and #6 each have one dump pit and comparables #2 and #4 each have two dump pits. Comparables #1 through #6 have licensed bushel capacities ranging from 99,187 to 2,584,892 bushels. The comparables have land assessments ranging from \$1,940 to \$54,320 or from \$770 to \$10,234 per acre of land area and have improvement assessments ranging from \$94,640 to \$4,079,680.

At hearing, the appellant presented its witness, Roger Hugenberg,⁶ who testified he was employed by the appellant in 1994 for nine years, then worked in the farm credit industry, and returned to employment with the appellant in 2012. The witness stated he became general manager for the appellant in 2014 and his job duties include buying and selling grain handling facilities and supervising and maintaining the appellant's nine facilities, which include the subject, an administrative office, a feed mill and grain facility in Ursa, an inland terminal in Loraine, an inland terminal in Bowen, a river terminal in Meyer, a river terminal in Warsaw, and facilities in Missouri. Hugenberg also testified he serves on or is affiliated with various industry-related boards. (TR p. 29-33).

Hugenberg explained the process of the appellant purchasing the land and constructing the subject facility. He explained appellant's plans for the subject evolved from ground piles to hoop buildings to grain bins. Hugenberg stated the appellant decided to construct larger grain bins due to economies of scale in construction. (TR p. 33-36).

The appellant's counsel, Cullerton, presented the witness with a hearing exhibit labeled as "Exhibit 2".⁷ Hugenberg testified that each of the subject's two larger grain bins has a licensed bushel capacity of 1,367,000 bushels and each of the subject's two smaller grain bins has a licensed bushel capacity of 57,600 bushels. He acknowledged that the subject's property record card describes 1,400,000 bushels and 60,000 bushels, respectively. The witness stated the construction cost of the subject's grain bins was not the same as indicated market value shown in Hearing Exhibit 1. Hugenberg testified each of the subject's larger grain bins was constructed by

⁵ The comparables are common to both the appellant and the board of review. The board of review presented a grid analysis of the comparables that was adopted by the appellant in written rebuttal.

⁶ The appellant presented Hugenberg's testimony as an offer of proof in the event that the Board granted the intervenor's outstanding motion to bar this witness.

⁷ The board of review and the intervenor objected to this exhibit as containing new evidence, specifically, to column 3, which depicts the statutory level of assessment, and column 4 which depicts a calculation of indicated market value based on columns 2 and 3. The ALJ admitted this exhibit over objection as a demonstrative exhibit. (TR p. 37-41). This exhibit is marked as Hearing Exhibit 1 as the first exhibit submitted at hearing despite being labeled by the appellant as Exhibit 2.

Shaffer for just under \$2,600,000, including concrete, foundation, delivery, construction, and labor.⁸ Based on the cost and licensed bushel capacity for each larger grain bin, the witness calculated a cost of \$1.93 per bushel for each larger grain bin.⁹ With respect to the subject's two smaller grain bins, Hugenberg stated the appellant paid Shaffer just under \$157,000 to construct each smaller grain bin.¹⁰ He explained the costs for the grain bins included a sweep, which he described as machinery installed in the grain bin that pulls grain to the center to be unloaded, but he contended that having a sweep is not necessary to operate a facility.¹¹ (TR p. 37-48).

Based on a cost of \$1.93 per bushel, Hugenberg computed an assessed value for each larger grain bin of \$3.63 per bushel. Based on a cost of \$2.71 per bushel, Hugenberg computed an assessed value for each smaller grain bin of \$7.05 per bushel.¹² He stated the total paid to Shaffer was \$6.5 million, with \$5.6 million allocated to the grain bins. Based on licensed bushel capacity, the witness calculated a total cost of \$1.97 per bushel to construct the grain bins. Hugenberg testified the value of the grain bins reflected by their assessment totals \$10,633,844, which is approximately five million dollars more than the appellant paid for them. (TR p. 50-55).

The witness explained the operation of a grain elevator from delivery and receipt of the grain to its drying and storage and finally to loading it out for delivery to another destination. He described a scale as a 15 foot by 70 foot pad with cells underneath operated with software and confirmed scales were included in the subject's construction costs. (TR 55-61).

After receiving notice of the subject's assessment, the witness testified the appellant reviewed the assessment for the former facility, which had 206,000 bushels of storage, and the appellant's other properties in Adams County, including the appellant's Meyer and Loraine facilities.¹³ Hugenberg said he assisted in selecting the comparables for this appeal, which he agreed are

⁸ This testimony was elicited after the appellant's counsel, Cullerton, recited information from the property record card and calculations, which drew an objection from the intervenor that was sustained by the ALJ. (TR p. 40-41).

⁹ The intervenor objected to this testimony as pertaining to different jurisdictions and the board of review objected on the basis that the testimony exceeded the scope of the disclosed subject matter. The ALJ overruled the intervenor's objection, finding that this testimony concerned the subject property, and reserved ruling on the board of review's objection. (TR p. 44-46). As to the reserved ruling on the board of review's objection, the Board finds this testimony is within the scope of the disclosure as it relates to the improvements constructed on the subject property and overrules the board of review's objection.

¹⁰ The intervenor objected to this line of questioning as lacking foundation. The ALJ reserved ruling on this objection. (TR p. 47). As to the reserved ruling, the Board finds the witness' testimony demonstrates he had knowledge of the construction of the subject's improvements and overrules this objection.

¹¹ This line of questioning drew objections from the intervenor based on lack of foundation and the board of review based on relevance. The appellant contended the intervenor has raised the issue of construction costs. The ALJ reserved ruling on these objections. (TR p. 48-50). The Board hereby finds the witness' testimony demonstrates he had knowledge of the subject's construction and that the testimony is within the scope of the disclosure as it relates to the improvement constructed on the subject property. Thus, the Board overrules these objections.

¹² The board of review renewed its objection to this testimony as outside the scope of the witness disclosure. The ALJ reserved ruling on this objection. (TR p. 51-52). The Board now finds this testimony is within the scope of the disclosure as it relates to the improvements constructed on the subject property and overrules this objection.

¹³ The board of review objected to this testimony as not relevant and narrative. The ALJ sustained the objection as to narrative response and asked the appellant to avoid eliciting narrative responses. (TR p. 62). However, the Board finds this testimony is relevant to explain how the appellant developed its assessment request and overrules the objection as to relevance.

described in the grid analysis presented by the board of review. He stated that he is familiar with the operations at these comparables.¹⁴ (TR p. 61-63).

With regard to comparable #1, Hugenberg stated this property is an inland facility like the subject and explained it has similar operations to the subject, specifically buying grain, obtaining bids from end users, and then selling grain to those end users.¹⁵ He calculated an indicated market value of \$470,540, or \$0.82 per bushel, as reflected by its assessment when applying the statutory level of assessment of 33.33%. (TR p. 65-68).

With regard to comparable #2, Hugenberg testified this property is an inland facility with similar operations to the subject. He calculated an indicated market value of \$842,762, or \$1.17 per bushel, as reflected by its assessment when applying the statutory level of assessment of 33.33%. (TR p. 68-71).

With regard to comparable #3, Hugenberg stated this property is an older inland facility with some new construction and has similar operations as the subject. Hugenberg testified this comparable also has a feed mill. He calculated an indicated market value of \$664,204, or \$1.05 per bushel, as reflected by its assessment when applying the statutory level of assessment of 33.33%. (TR p. 71-73).

With regard to comparable #4, Hugenberg stated this property has similar operations to the subject. He calculated an indicated market value of \$308,738, or \$1.85 per bushel, as reflected by its assessment when applying the statutory level of assessment of 33.33%. (TR p. 73-77).

With regard to comparable #5, Hugenberg testified this property is newer construction and has similar operations as the subject. He calculated an indicated market value of \$458,708, or \$1.84 per bushel, as reflected by its assessment when applying the statutory level of assessment of 33.33%. (TR p. 77-79).

With regard to comparable #6, Hugenberg acknowledged this property is not located in Adams County.¹⁶ Hugenberg stated this property is a relatively new inland facility with a similar grain storage operation as the subject. However, he explained this comparable has a feed mill, for which it also buys additional grain to grind into animal feed. Hugenberg calculated an indicated market value of \$4,675,645, or \$1.81 per bushel, as reflected by its assessment when applying the statutory level of assessment of 33.33%. (TR p. 79-82).

¹⁴ The appellant's counsel, Cullerton, presented a hearing exhibit labeled as "Exhibit 1", which drew objections from the board of review and the intervenor on the basis that it sought to introduce new evidence. The appellant argued it was merely demonstrative. The ALJ sustained the objections as the exhibit included questions and commentary not just data. (TR p. 62-63).

¹⁵ The board of review objected to the relevance of this questioning. The appellant contended it was relevant to compare the income-producing characteristics of the subject and the comparables. The ALJ reserved ruling on this objection. (TR p. 66). The Board hereby finds this testimony regarding the characteristics of the comparables is relevant to the comparability of these properties to the subject and the objection is overruled.

¹⁶ The board of review objected to this comparable on the basis of its location outside Adams County. The appellant argued comparables in different counties are instructive. The ALJ reserved ruling on this objection. (TR p. 79). The admissibility of this comparable is discussed below.

With regard to comparable #8, Hugenberg stated he has toured this facility many times, most recently in June. He further stated this facility buys only soybeans, which it processes into soybean oil (that is sent to its own oil refining plant for further processing) and other soybean derived products. The witness testified this comparable is served by barges and by trucks. Based on his familiarity with the facility, he estimated this facility has an approximately 10 million bushel storage capacity. Hugenberg calculated an indicated market value of \$12,414,414, or \$1.23 per bushel, as reflected by its assessment when applying the statutory level of assessment of 33.33%. (TR p. 82-86).

For comparison, Hugenberg calculated an indicated market value for the subject of \$11,698,859, or \$4.13 per bushel, as reflected by its assessment when applying the statutory level of assessment of 33.33%. He asserted the subject has not showed a profit since its construction.¹⁷ (TR p. 86-89).

On cross-examination by the intervenor, the witness confirmed he assisted in selecting the comparables, but agreed he is not an appraiser. When asked how age affects comparability, Hugenberg asserted grain bins of different ages have the same purpose and function. He contended that modern equipment and technology can be installed in older bins, but he acknowledged differences in functional and economic obsolescence exist between the subject and some of the comparables. Hugenberg explained an inland facility is a facility that is not an end market. He acknowledged three comparables each have a feed mill unlike the subject and that comparable #8 is located on a river unlike the subject. (TR 92-100).

Upon questioning by the ALJ regarding the appellant's calculation of its requested assessment, the witness explained that the appellant presented cost information using the Department of Revenue's cost schedules for consistency, but that the appellant's requested assessment was developed from the subject's actual construction costs. (TR p. 104-111).

On re-direct examination, Hugenberg stated the comparables are all located within the same competitive market as the subject and confirmed that comparable #8 has grain bins. Hugenberg clarified that in developing the requested assessment, he examined the comparables and Department of Revenue cost schedules and worked with the appellant's attorneys. (TR p. 112-114).

In closing, the appellant argued the subject's grain bins are assessed well in excess of their construction costs and the subject's assessment is much higher than the comparables on a per bushel basis. The appellant contended that Hugenberg testified that the comparables operate similarly to the subject and have similar income potential. The appellant further contended that the board of review's evidence demonstrates properties are not being assessed in a uniform manner and that the subject was assessed based on a value concluded from news articles. (TR p. 200-203). Based on this evidence, the appellant requested a reduction in the subject's land and improvement assessments.

¹⁷ The intervenor and the board of review objected to this questioning as outside the scope of the disclosed subject matter, with the board of review contending income is not a characteristic of a property. The appellant argued income-producing characteristics are relevant and that income data for the subject is contained within the record. The ALJ reserved ruling on this objection. (TR p. 87-88). Upon review of the record, the Board finds evidence of the subject's income is relevant to its fair cash value and overrules this objection.

Board of Review's Evidence

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$3,895,720. The subject property has a land assessment of \$94,140 or \$5,954 per acre of land area and an improvement assessment of \$3,801,580. Also, as part of the "Notes on Appeal," the board of review disclosed 2019 was the first year of the general assessment cycle for the property and that an equalization factor of 1.0271 was applied to non-farm properties in Camp Point Township for the 2021 tax year.

In support of its contention of the correct assessment, the board of review presented the subject's property record card, which allocates values to each improvement as follows: 2 grain bins at \$1,636,000 each, 2 grain bins at \$135,330 each, a grain dryer at \$107,320, an office building at \$123,000, and inbound and outbound scales at \$13,500 each. The board of review submitted a grid analysis and other information on the comparables, including their property record cards.

In further support of the subject's assessment, the board of review submitted a Real Estate Transfer Tax Declaration for a November 21, 2019 sale of the unimproved subject property for a price of \$275,000, which discloses the property was not advertised for sale.

The board of review submitted a brief contending that the appellant has not established fair cash values of the equity comparables to demonstrate the subject and the comparables have been at different proportions of their fair cash values. The board of review further contended the comparables differ from the subject in their features. The board of review argued appellant did not present its actual construction costs for subject despite the subject's improvements being newly constructed. The board of review asserted the appellant's calculation of costs using Publication 126 understates the value of the grain bins.

The board of review also submitted copies of a promotional brochure published by the appellant describing the subject facility; a document entitled "Call to Action: Camp Point Property Tax Assessment" directed to its patrons/members with sample letters to the board of review and the intervenor regarding the subject's assessment; news articles regarding the subject, one of which reported a cost of \$13 million for the subject; a Petition for a Special Permit; a Warranty Deed for the subject, describing the seller as Adams Electric Cooperative; an Application for Permit; minutes of a February 6, 2020 zoning commission meeting; and a sewer connection application.

At hearing, the board of review contended that the comparables are not similar to the subject, except for comparable #6 which is located in a different county and should not be considered as evidence of a lack of uniformity. The board of review asserted the other comparables have significantly less bushel capacity with a greater number of grain bins than the subject. (TR p. 21-23).

The board of review called its first witness, Nancy Leapley, who testified she is a multi-township assessor and has been the township assessor for Camp Point Township for over ten years. Leapley stated the subject's improvements were first assessed when construction was complete, but she was uncertain of the year. The board of review's counsel, Sherer, presented the witness

with the subject's property record card.¹⁸ Leapley then testified she did not recognize the subject's property record card. (TR p. 115-118).

On cross-examination by the appellant, the witness said she is also the township assessor for Liberty and Columbus Townships. She confirmed that she assessed new grain bins at the Liberty facility [comparable #5]. The appellant's counsel, Cullerton, presented the witness with comparable #5's property record card, which Leapley said she recognized. Leapley explained she prepares assessment information for the township's books, which is then used to prepare the property record cards. She could not recall when the new grain bins at comparable #5 were first assessed, but confirmed they would have been assessed after construction was complete. When asked how those improvements were priced, Leapley testified she called Dearwester to obtain the cost of the grain bins and used that amount for the assessment. She testified: "I called the facility, and he had his secretary look up the amounts and give them to me." Leapley said she did not use any cost manuals to price the new bins. (TR p. 118-123).

With regard to the assessment of the subject property, Leapley testified she called the subject facility to obtain the cost, which she then used for the assessment. She did not recall who gave her the cost information over the phone. Leapley acknowledged cost information for the subject was reported in news articles, but she asserted that she did not rely on new articles for the cost information used to assess the subject. Leapley stated assessments are based on cost not on bushels. She testified that she was unfamiliar with the Department of Revenue's Publication 126. (TR p. 123-128).

On questioning by the ALJ, the witness testified she calls or visits a facility to obtain cost information for its assessment. Leapley stated she makes notes of those calls and visits, but she only retains those notes until the end of the year. (TR p. 128-129).

The board of review next called its witness, Kelly Thompson, who testified she has been the Deputy Supervisor of Assessments of Adams County since 2016. Thompson stated she prepared the board of review's grid analysis of comparables. She asserted the comparables differ from the subject in their location in different townships, age, number of bins, and size of bins. Thompson said she obtained licensed bushel capacity information for comparables #1 through #6 from Dearwester. She confirmed the subject's improvements were first assessed in 2021. (TR. 132-140).

On cross-examination by the appellant, Thompson stated the board of review directed her to gather the data for the grid analysis and that the board of review selected the property characteristics shown in the grid analysis for which she obtained the data. Thompson said she did not prepare the property record cards for the comparables, but that she used the property record cards and licensed bushel capacity information from Dearwester to fill out the grid analysis. She stated the licensed bushel capacity for the subject was not included in its property record card so she obtained it from the township assessor [Leapley]. Based on her conversation

¹⁸ This questioning drew an objection from the appellant on the basis the witness had not indicated any document would refresh her recollection. The ALJ overruled the objection as the witness may be questioned about the subject's property record card, which is in the record and given the witness' role as township assessor. (TR p. 115-118).

with the township assessor, Thompson understood the township assessor obtained the subject's licensed bushel capacity from a newspaper article and a call to the subject facility. (TR p. 140-148).

With regard to comparables #1 and #3, Thompson acknowledged the grid analysis describes grain bins for these comparables built in 2021 and 2018, respectively, but their property record cards do not appear to describe these grain bins.¹⁹ Thompson explained that property record cards in Adams County do not typically include descriptive information for grain bins. Thompson further explained each township does its own assessing and she did not know what actions, if any, the board of review takes to ensure uniformity. Thompson did not know whether these new improvements had been assessed, but confirmed that new improvements should be assessed. With respect to the grain bin counts for comparables #1 through #5, Thompson testified she obtained grain bin counts from Dearwester when she was preparing the grid analysis. She did not know whether these counts were accurate as of the assessment date rather than the date the counts were furnished. With regard to the Liberty facility [comparable #5], Thompson did not know when the new bins at that property were first assessed because the property record card does not list the year. With regard to comparable #6, Thompson asserted this property differs from the subject in age and site size. (TR p. 148-168).

Upon questioning by the ALJ, the witness testified the supervisor of assessment's office does not usually make changes to the assessments of the township assessors. Thompson acknowledged it was possible that each township assessor was using a different method to assess. (TR p. 169).

In closing argument, the board of review argued the appellant has not demonstrated that grain elevators are valued on a per bushel basis. The board of review further argued the appellant's evidence regarding the comparables lacks adjustments for differences from the subject. The board of review contended the appellant has not presented evidence to demonstrate the comparables are any assessed differently from the subject in relation to their fair cash values. (TR p. 204-205). Based on this evidence, the board of review requested confirmation of the subject's assessment.

Intervenor's Evidence

The intervenor submitted a brief contending that the subject is correctly valued, or in the alternative, is undervalued based on the actual cost of the subject's improvements. The intervenor presented copies of construction invoices for the subject totaling \$12,911,356.82, which it obtained from the appellant, and two news articles reporting construction costs of \$13 and \$13.7 million. The intervenor also submitted copies of decisions of the Board, namely, Momence Community Unit School District No. 1, Docket Number 08-05004.001-C-3 and JJS, Inc., Docket Number 08-29545.001-C-3.

At hearing, the intervenor contended there is no evidence in the record of the fair cash values of the subject or the comparables and the record lacks comparative evidence of the physical,

¹⁹ The intervenor objected to this line of questioning as this witness did not prepare the property record cards. The appellant argued the questioning relates to county records for the comparables presented in the grid analysis that was prepared by the witness. The ALJ overruled the objection and directed the witness to answer within her knowledge.

geographical, and income-producing characteristics of the subject and the comparables. The intervenor further contended that market value may be shown through documentation of recent construction costs. (TR p. 24-27).

The intervenor presented its witness, Daniel Mock, who testified he has been the mayor of the Village of Camp Point since 2018. Mock stated that as mayor he meets with existing and prospective businesses to discuss projects or operations that would need approval. Mock testified he spoke to Hugenberg in 2018 or 2019 about the appellant developing a new facility and recalled the plans for the appellant's project were still uncertain at that time. Mock stated construction of the subject's improvements began in February or March 2020 and was complete in about nine months. He recalled approximately ten public or private meetings with the appellant's representatives, with some of those meetings related to zoning.²⁰ Mock recalled a February 6, 2020 public zoning commission hearing convened for the purpose of discussing the location of the grain bins, during which construction costs were discussed. (TR p. 170-182).

The intervenor's counsel, Chipman, presented the witness with copies of the invoices submitted with the intervenor's evidence. The witness testified that he had reviewed these invoices totaling approximately \$12.9 million and he recalled reading news articles reporting a cost of \$13.6 million. Mock said the appellant did not receive any financial incentives for the subject property. (TR p. 182-184).

The appellant's counsel, Cullerton, questioned Mock on cross-examination.²¹ Mock testified he has not bought, sold, or constructed a grain elevator. He said he was familiar with what is included in a grain elevator facility, but did not know the itemization of costs. Mock further stated he did not know whether cost and capacity were related.²² Mock testified he had knowledge of the total cost of the subject facility, but did not know the cost itemization. (TR p. 184-188).

Upon questioning by the ALJ, Mock stated he first reviewed the invoices presented by the intervenor in connection with this appeal. Mock testified he believed the invoices were redacted because certain line items were crossed out, and thus, he did not know whether these invoices were a complete set of invoices for the construction of the subject property. (TR p. 189).

The intervenor contended in closing argument that the appellant did not present the fair cash values of the comparables for comparison with the subject. The intervenor argued the appellant has not presented evidence of the income-producing capacity of the subject and the comparables. (TR p. 205-207). Based on this evidence, the intervenor requested an increase the subject's

²⁰ Mock then stated he was told a tax amount of \$225,000 could be expected. This testimony drew an objection from the appellant on the basis of hearsay. The ALJ sustained the objection.

²¹ Counsel asked whether \$12.9 million was a fair market value for assessment purposes. This question drew an objection from the intervenor who argued the witness was not qualified as an expert. The appellant argued the witness had testified about real estate taxes. The ALJ sustained the objection as the testimony lacked foundation.

²² The witness was asked if he agreed that a grain bin could be built for \$1.94 per bushel. This line of questioning drew objection from the intervenor as the witness said he was unfamiliar with the costs and construction of a grain elevator. The appellant contended the witness could respond within his knowledge. The ALJ sustained the objection.

assessment to reflect its actual construction costs, or in the alternative, to sustain the subject's assessment.

Appellant's Rebuttal

In written rebuttal, the appellant submitted a memorandum contending the comparables, as described in Exhibit A to the rebuttal,²³ support a reduction in the subject's assessment. The appellant argued that the subject's construction costs should not be used to value the subject for assessment purposes. The appellant submitted Exhibit B, which describes costs relating to the construction of the subject's building, and Exhibit C, which describes the subject's income and expenses in fiscal years 2021 and 2022, which resulted in net losses for both years.

At hearing, the appellant re-called Hugenberg as a rebuttal witness.²⁴ Hugenberg testified that he did not receive a telephone call from Leapley regarding the costs of the subject property and was not aware of a telephone call by Leapley to any other employee of the appellant regarding costs. Hugenberg stated he would typically be the person to respond to that type of inquiry, but acknowledged there was one other employee who would know the details of the costs. Hugenberg did not recall any discussion of costs at the first meeting with Mock, but he agreed there were several public and private meetings relating to zoning and the location of the improvements. Hugenberg testified the invoices produced to the intervenor were redacted to exclude costs for other facilities, and he confirmed no amounts relating to the subject property were redacted. (TR p. 193-195).

The appellant stipulated that the total cost for the project at the subject property is reflected in the invoices produced to the intervenor, totaling approximately \$12.9 million. The parties reiterated their disagreement that this amount should be used for the subject's assessment. (TR p. 197-199).

Conclusion of Law

The appellant contends assessment inequity regarding both the land and improvement assessments 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 record contains a total of seven common comparables presented by the appellant and the board of review. Hugenberg testified regarding the locations, improvements, and operations of

²³ The grid analysis marked as Exhibit A is the same grid analysis presented by the board of review with its evidence.

²⁴ This rebuttal testimony was presented as an offer of proof pending a ruling on the outstanding motion to bar this witness. The appellant again asked the ALJ to compel the witness to testify. The ALJ reserved ruling on this motion pending a ruling on the intervenor's motion to bar this witness. (TR p. 191-192). After ruling on the intervenor's motion to bar above, the Board finds the motion to compel the rebuttal witness is moot.

the subject and each of the comparables. The Board finds Hugenberg's testimony regarding the subject and the comparables to be credible, as Hugenberg testified regarding his extensive experience in the industry and his familiarity with the subject and the comparables. Thompson also testified regarding the subject and the comparables. The Board finds Thompson's testimony was credible, but that her knowledge of the comparables was limited to the information she obtained for the grid analysis.

As an initial matter, the Board gives no weight to comparable #6, which is located in Hancock County. The Board finds the appellant did not present any evidence of the assessment practices in Hancock County to support the inclusion of this comparable to demonstrate a lack of assessment uniformity. See Oregon Community Unit Sch. Dist. No. 220 v. Property Tax Appeal Bd., 285 Ill. App. 3d 170, 184, 674 N.E. 2d 129, 139, 220 Ill. Dec. 858, 868 (2d Dist. 1996); Cherry Bowl, Inc. v. Property Tax Appeal Bd., 100 Ill. App. 3d 326, 331, 426 N.E.2d 618, 622-23, 55 Ill. Dec. 472, 476-77 (2d Dist. 1981). Furthermore, equity is determined within the same jurisdiction. "The uniformity requirement [set forth in Article IX, Section 4 of the Illinois Constitution of 1970] prohibits taxing officials from valuating one kind of property within a taxing district at a certain proportion of its true value while valuating the same kind of property in the same district at a substantially lesser or greater proportion of its true value." Kankakee County Bd. of Review v. Property Tax Appeal Bd., 131 Ill. 2d 1, 20-21, 544 N.E.2d 762, 771, 136 Ill. Dec. 76, 85 (Ill. 1989) (citations omitted).

Land Assessment

With regard to land assessment inequity, the record contains seven comparables with varying degrees of similarity to the subject. The Board finds comparables #1 through #5 are substantially smaller sites than the subject and comparable #8 is located on a river unlike the subject, suggesting adjustments to these comparables would be needed to make them more equivalent to the subject. These comparables have land assessments ranging from \$1,940 to \$54,320 or from \$770 to \$10,234 per acre of land area. The subject's land assessment of \$94,140 or \$5,954 per acre of land area is above the range established by the comparables in terms of total land assessment but is within the range on a per acre basis. However, after considering appropriate adjustments to the best comparables for differences from the subject, the Board finds the subject's land assessment is excessive.

Although the subject's land assessment reflects a market value approximately equivalent to its 2019 sale price of \$275,000 plus an equalization factor of 1.0271 for the 2021 tax year, the Board finds the 2019 sale was not an arm's length transaction indicative of market value. The Real Estate Transfer Tax Declaration for this sale, which was presented by the board of review, disclosed that the property was not advertised for sale.

Therefore, based on equity and the weight of the evidence, the Board finds a reduction in the subject's land assessment is justified.

Improvement Assessment

With regard to improvement assessment equity, the appellant challenged the improvement assessment of the subject's grain bins and scales in the appeal petition, but at hearing, the

appellant also argued that the subject's improvement assessment incorrectly includes amounts for process-related machinery and equipment, such as grain elevator legs and dryers. The Board finds this argument was not raised in the appeal petition. In the table entitled "Evaluation of Assessment" the appellant disagrees that the subject's scales should be assessed, indicating a \$0 assessment for these items, but accepts the assessment amount for the grain dryer, which contradicts the appellant's argument at hearing that this item should not be assessed. Moreover, the appellant presented no legal authority or evidence to support its argument that grain dryers, legs, and scales are non-assessable personal property in Adams County. Notwithstanding the foregoing, the Board finds the record evidence shows these items are assessed in Adams County. The property record cards for the comparables in Adams County includes assessment amounts for dump pits, legs, grain dryers, and scales.

With regard to improvement assessment inequity, the record contains seven comparables with varying degrees of similarity to the subject. The Board gives less weight to comparables #3 and #8, which operate a feed mill or process soybeans unlike the subject. The Board finds the best evidence of improvement assessment equity to be comparables #1, #2, #4 and #5, which are more similar to the subject in their operations. However, the Board finds even these comparables have substantial differences from the subject in grain bin count, grain bin size, bushel capacity, and/or age.

The subject has four grain bins and licensed bushel capacity of 2,832,000 bushels. Comparables #1, #2, and #4 have from 10 to 18 grain bins and licensed bushel capacities ranging from 99,187 to 722,316 bushels, which are significantly less than the subject despite having a greater number of grain bins than the subject. Comparable #5 has four grain bins like the subject, but has a licensed bushel capacity of 249,769 bushels, indicating these grain bins are smaller than the subject. Even based on the unredacted grain bin counts of these comparables, the comparables would have licensed bushel capacities ranging from 166,323 to 738,765 bushels, which is still significantly less than the subject. The Board finds the best comparables have substantially smaller grain bins and licensed bushel capacities than the subject.

The intervenor argued that the comparables should also be adjusted for age, suggesting that older grain bins have less utility than newer bins. Hugenberg testified that grain bins of different ages have the same purpose and function, but acknowledged differences in functional and economic obsolescence exist between the subject and some of the comparables. Based on this testimony, the Board finds adjustments to the comparables for differences from the subject in age are appropriate. The best comparables range in age from 1950 to 2021, with comparables #1 and #5 each having one grain bin built in 2021 and comparable #5 also having a grain bin built in 2020. Thus, the Board finds the best comparables are older facilities than the subject, with comparables #1 and #5 having some improvements similar in age to the subject, that would require upward adjustments to make them more equivalent to the subject.

The intervenor also argued that income-earning capacity of the subject and the comparables should be considered in determining whether uniformity exists. In support of this argument the intervenor submitted copies of prior Board decisions quoting Kankakee County Bd. of Review v. Property Tax Appeal Bd., 131 Ill. 2d 1, 17, 544 N.E.2d 762, 769, 136 Ill. Dec. 76, 83 (Ill. 1989) that affirm income-earning capacity is an important factor in determining the fair cash value of a property. In support of the subject's income-earning capacity, the appellant presented an income

and expense statement. Even if this statement accurately depicts the subject's actual income and expenses, the appellant has not demonstrated that the subject's actual income and expenses should be used to determine the subject's fair cash value, rather than market income and expenses. See Springfield Marine Bank v. Property Tax Appeal Bd., 44 Ill. 2d 428, 430-31, 256 N.E.2d 334, 336 (Ill. 1970); Lake County Bd. of Review v. Property Tax Appeal Bd., 172 Ill. App. 3d 851, 856-58, 527 N.E.2d 84, 87-88, 122 Ill. Dec. 712, 714-16 (2d Dist. 1988). The Board further finds the only evidence of the income-earning capacities of the comparables is Hugenberg's testimony that the comparables have operations similar to the subject. The Board finds that this testimony does not quantify the income-earning capacity of the comparables and is insufficient to compare the income-earning capacities of the comparables to the subject. Consequently, the Board gives this income evidence no weight.

At hearing, the appellant also argued assessment inequity resulting from different townships in Adams County using different methods to assess grain elevator properties. The Board finds the only evidence of the assessment methods used in Adams County is found in Leapley's testimony and is limited to two townships. Leapley testified that she assessed both the subject and comparable #5 according to their costs, which she obtained from each facility. She denied using news reporting of the subject's costs to assess the subject property. Although the Board finds that Leapley was a less credible and/or reliable witness,²⁵ her testimony was corroborated by other evidence in the record. The subject's assessment reflects a market value of \$11,677,818 using the 2021 three-year average median level of assessment for Adams County of 33.36%, which falls below the \$13 and \$13.7 million amounts described in the news articles presented by the board of review and the intervenor, indicating that Leapley did not rely on news reporting, as is consistent with her testimony. Thus, based on this record, the Board finds the appellant did not demonstrate that different assessment methods are used in different townships within Adams County. The Board further finds the appellant did not present any evidence to support its contention that the use of different methods results in inequitable assessments.

At hearing, the appellant further argued that Adams County does not uniformly assess all improvements at grain elevator facilities. Thompson acknowledged, on cross-examination, that grain bins at comparables #1 and #3, which were described in the grid analysis, did not appear on their property record cards. Thompson testified she did not know whether those improvements had not been assessed, explaining that property record cards in Adams County generally do not contain descriptive information for each grain bin and that newly constructed improvements should be assessed. The Board finds that Thompson's lack of knowledge about the assessment of improvements at comparables #1 and #3 is not affirmative evidence that their assessments are incomplete. The appellant did not present any other properties with assessments that it contends to be deficient. Based on this record, and despite a lack of descriptive information in the property record cards, the Board finds the appellant has not shown by clear and convincing evidence that the assessment of improvements is inconsistent in Adams County. Furthermore, to the extent that the appellant is contending that the subject's grain bins should not be assessed

²⁵ This finding is based on her lack of recollection of details of the subject's assessment as well as her lack of knowledge of assessment practices. Leapley did not recognize the subject's property record nor who she spoke with at the subject facility, but recalled details of her conversation regarding new grain bins at comparable #5 and recognized its property record card. Leapley was also unfamiliar with the Department of Revenue's Publication 126, which calls into question her knowledge of assessment practices.

because grain bins at comparables #1 and #3 were not assessed, this argument is not supported by any legal authority presented by the appellant or found in the record evidence.

As a final point, both the appellant and the intervenor argued the subject's assessment should reflect its construction costs. The appellant stipulated that the total amount of the invoices (\$12,911,356.82) is the total cost of project. The intervenor argued this amount is the subject's fair cash value for assessment purposes. The appellant contended the subject's fair cash value should be derived from the actual costs of constructing each improvement, rather than the total project cost. In support of its requested assessment, the appellant presented in its "Evaluation of Assessment" table containing cost calculations of the subject's improvements and Hugenberg's testimony regarding the cost of constructing the grain bins.

The cornerstone of uniform assessments is the fair cash value of the property and uniformity is achieved when all properties with similar fair cash values are assessed at a consistent level. Kankakee County Bd. of Review v. Illinois Prop. Tax Appeal Bd., 131 Ill. 2d 1, 21, 544 N.E.2d 762, 771, 136 Ill. Dec. 76, 85 (Ill. 1989).

The Board finds the only evidence of the fair cash values of the comparables is found in Hugenberg's testimony, during which he computed the indicated market values of the comparables based on their assessments. The Board gives no weight to this testimony as these calculations were not supported by any sales or market data in the record. These calculations were mere conversions of assessments to estimated market value figures using the statutory level of assessment of 33.33%. Although the appellant and the intervenor presented evidence of the subject's fair cash value of the subject as established by construction costs, the Board finds the record lacks credible evidence of the fair cash values of the comparables.

Considering the evidence presented by the parties concerning the subject and the comparables, the Board finds the best comparables have substantial differences from the subject in grain bin count, grain bin size, bushel capacity, and/or age, but there is no evidence in the record to provide a basis for the adjustments that would be needed to make the best comparables more equivalent to the subject. Furthermore, the appellant did not establish the income-earning capacities of the comparables for comparison to the subject. The appellant also did not establish the fair cash values of the comparables to compare the proportions of fair cash values at which the comparables and the subject are assessed. Thus, the Board finds there was no showing by the appellant that the subject property was assessed at a substantially higher proportion of its fair cash value than the best comparables.

Based on this record, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvements were inequitably assessed and no reduction in the subject's improvement 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: November 21, 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.

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