



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

APPELLANT: Sitco Communications LLC
DOCKET NO.: 21-08020.001-C-1
PARCEL NO.: 06-22.0-400-010

The parties of record before the Property Tax Appeal Board are Sitco Communications LLC, the appellant, by attorney James W. Kelley, of James W. Kelley Law Office in Sparta; and the St. Clair 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 **St. Clair** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$3,739
IMPR.: \$68,798
TOTAL: \$72,537

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the St. Clair 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.¹ The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of two 300 foot tall communications towers, three communications buildings, 384 linear feet of fencing, and 384 square feet of paved area.² Tower 1 was constructed in 1950 and Tower 2 was built in 1996. Building 1 has 286 square feet of building area and was built in 1950, Building 2 has 220 square feet of building area and was built in 1996, and Building 3 has 209 square feet of building area and was built in 1996. The paving and

¹ As an initial matter, the appellant submitted a Commercial Appeal petition denoted as a 2020 tax year appeal, which was assigned Docket No. 20-09073.001-C-1, although both parties submitted data indicating the appeal was a 2021 tax year appeal. Thus, prior to issuance of this decision the Board corrected the error and re-assigned the appeal as Docket No. 21-08020.001-C-1.

² Additional details regarding the subject property not reported by the appellant are found in the subject's 2021 tax year property record card presented by the board of review and which was not refuted by the appellant in written rebuttal.

fencing were constructed in 1996. The property has an approximately 0.96 acre site and is located in Carondelet, Sugar Loaf Township, St. Clair County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on March 10, 2020 for a price of \$100,700. The appellant completed Section IV – Recent Sale Data of the appeal petition disclosing that the sale was not between related parties; the property was sold by the owner, Southern Illinois Tower Company, Inc.; the property was advertised for sale for 6 months by “word of mouth”; and the sale was not due to foreclosure or by contract for deed.

In support of the transaction, the appellant submitted “Exhibit C” describing what was purchased by the appellant.³ Exhibit C depicts an allocation of value of \$100,700 for the subject property for tax purposes and describes the following: two 300 foot towers valued at \$45,000 each, two buildings with air conditioning valued at \$5,000 each, a generator valued at \$300, a propane tank valued at \$300, fencing valued at \$100, a ground lease, and “[a]ll other property within the compound not owned by others.”⁴ No land was depicted as included in this purchase.

The appellant submitted a brief contending that the towers are personal property. The appellant stated the present value of the leases on the towers is \$52,736, which should be deducted from the \$100,700 purchase price to compute a value for the assessable real property of \$47,964. The appellant explained it leases the land from Columbia Quarry, the owner of the land, and that its lease with Columbia Quarry terminates on December 31, 2024. The appellant further asserted Building 1 has been used in connection with Tower 1 since the 1950s and Buildings 2 and 3 were constructed to serve Tower 2. However, the appellant explained that Building 2 has been vacant since in 2006 when the two companies leasing this tower merged.

The appellant completed Section III – Description of Property of the appeal petition stating that two of the subject’s buildings are portable. The appellant further stated Buildings 1 and 3 are used to house equipment and Building 2 is vacant.

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$17,579, rounded, which would reflect a market value of \$52,742 when applying the statutory level of assessment of 33.33%.⁵

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of \$72,537. The subject's assessment reflects a market value of \$217,242, land included, when using the 2021 three year average median level of assessment for St. Clair County of 33.39% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted the subject’s 2021 tax year property record card disclosing an assessment that includes two towers, three communications buildings, paved area, fencing, and land. The board of review submitted Page 6

³ The agreement to which this document is an exhibit was not submitted.

⁴ The Board notes this list does not assign any value to the third communications building.

⁵ The Board notes the appellant appears to have calculated a requested assessment based on the value of the tower leases rather than on its calculation of the real property.

of Section 67 of the Marshall Valuation Service (December 2019) providing a cost range of \$228.00 to \$380.00 for 30 foot cellular towers up to 400 feet high.⁶ The board of review calculated the replacement cost new of both towers to be \$87,950, or \$293.17 per linear foot, and subtracted estimated depreciation of 43% for Tower 1 to arrive at a depreciated value of \$50,384, or \$167.95 per linear foot, and estimated depreciation of 11% for Tower 2 to arrive at a depreciated value of \$78,599, or \$262.00 per linear foot.

With regard to the communications buildings, and as depicted on the property record card, the board of review calculated the replacement cost new of Building 1 to be \$31,660 with 43% depreciation to arrive at a depreciated value of \$18,137; Building 2 to be \$29,700 with 11% depreciation to arrive at a depreciated value of \$26,542; Building 3 to be \$28,215 with 11% depreciation to arrive at a depreciated value of \$25,216. The board of review computed the replacement cost new of the paved area to be \$1,478 with 11% depreciation to arrive at a depreciated value of \$1,321 and the fencing to be \$6,931 with 11% depreciation to arrive at a depreciated value of \$6,194. Based on the foregoing, the board of review concluded a total value for the subject of \$217,610, including land. The subject's property record card shows historical values used for the assessment of the subject property of \$42,864 for 2020 and \$40,275 for 2019.

The board of review presented the subject's 2019 tax year property record card disclosing an assessment that includes Tower 2, a 308 square foot shed, and 400 square feet of paved area. For that tax year, the board of review calculated the replacement cost new of Tower 2 to be \$33,580 with 18% depreciation to arrive at a depreciated value of \$27,474, the shed to be \$3,049 with 48% depreciation to arrive at a depreciated value of \$1,600, and the paved area to be \$1,140 with 18% depreciation to arrive at a depreciated value of \$933. The board of review concluded a total value for the subject of \$40,276, including land, for the 2019 tax year. This property record card shows historical values used for the assessment of the subject property of \$38,427 for 2018, \$36,723 for 2017, and \$37,203 for 2016.

The board of review also submitted a memo prepared by Mark D. Armstrong, CIAO, Clerk of the Kane County Board of Review, which was directed to the Chairman of the Kane County Board of Review. In the memo, Armstrong concludes that a cell tower is real property for assessment purposes, regardless of the terms of any lease or contract relating to it.

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

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill. Admin. Code § 1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill. Admin. Code § 1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

⁶ Based on this valuation service information, the Board computes a cost range for the subject Tower 1 and Tower 2 from \$68,400 to \$114,000 for a 300 foot tall tower.

As an initial matter, the appellant has challenged the classification of the towers and two buildings as real property. Section 1-130(a) of the Property Tax Code (35 ILCS 200/1-130) defines real property as:

The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon, including all oil, gas, coal, and other minerals in the land and the right to remove oil, gas and other minerals, excluding coal, from the land, and all rights and privileges belonging or pertaining thereto, except where otherwise specified by this Code. Not included therein are low-income housing tax credits authorized by Section 42 of the Internal Revenue Code, 26 U.S.C. 42.

Illinois courts have determined that the essential characteristics of an item as real property, rather than its treatment for contract or bookkeeping purposes, establish the classification of an item for assessment purposes. In re Hutchens, 34 Ill. App. 3d 1039, 1041-42 (4th Dist. 1976) (agreements between landlord and tenant or seller and purchaser concerning the classification of property do not control the classification of that property for assessment purposes); Ayrshire Coal Co. v. Property Tax Appeal Bd., 19 Ill. App. 3d 41, 44-45 (3d Dist. 1974).

Illinois courts have utilized two tests for determining whether an item is real or personal property: the intention test and the integrated industrial plant doctrine. Beeler v. Boylan, 106 Ill. App. 3d 667, 669-70 (4th Dist. 1982). Under the intention test, the item must be (1) annexed or attached to real property, (2) applied to the use or purpose for which the real property has been appropriated, and (3) intended to be a permanent improvement to the real property. Id. at 670. Under the integrated plant doctrine, all machinery necessary for the operation of a factory or plant is considered real property. Id. at 671. In Beeler, the court found under both tests that grain dryers were not real property as they had a short useful life and were not essential to the use of the real property as a farm. Id. at 670. 672.

The Board also notes that Section 24-5 of the Property Tax Code (35 ILCS 200/24-5) is relevant to the classification of real and personal property for assessment purposes and provides that:

Ad valorem personal property taxes shall not be levied on any personal property having tax situs in this State. However, this Section shall not prohibit the collection after January 1, 1979 of any taxes levied under this Code prior to January 1, 1979, on personal property subject to assessment and taxation under this Code prior to January 1, 1979. No property lawfully assessed and taxed as personal property prior to January 1, 1979, or property of like kind acquired or placed in use after January 1, 1979, shall be classified as real property subject to assessment and taxation. No property lawfully assessed and taxed as real property prior to January 1, 1979, or property of like kind acquired or placed in use after January 1, 1979, shall be classified as personal property.

Pursuant to Section 24-5, property that was lawfully classified as real property or personal property before January 1, 1979, cannot be reclassified as personal property or real property after that date. The taxpayer has the burden of proving that property is exempt under Section 24-5, and proving that such property was lawfully assessed and taxed as personal property prior to

January 1, 1979, and if this burden of proof is met, the property must be classified as personal property. Trahraeg Holding Corp. v. Property Tax Appeal Bd., 204 Ill. App. 3d 41, 43 (2d Dist. 1990). The appellant has not argued that any items are exempt from taxation under Section 24-5 of the Property Tax Code and neither party has presented any evidence of historical property classifications in St. Clair County.

The appellant contended that the items purchased by the appellant in March 2020 are non-assessable personal property. In support of this contention, the appellant submitted “Exhibit C” asserting the items were personal property for tax purposes at the time of purchase. The Board gave no weight to the appellant’s assertion of classification of items as personal property. The Board finds the classification of items as personal property between the appellant, as buyer, and Southern Illinois Tower Company, Inc., as seller, does not control the classification of such property for assessment purposes.

The Board also gave no weight to the appellant’s contention that two of the three communications buildings are portable, and thus, are non-assessable personal property. The Board finds the appellant did not present any evidence to support this contention. The evidence shows that Building 1 has served Tower 1 since the 1950s and Buildings 2 and 3 were built to serve Tower 2 in 1996. The evidence further shows that two buildings have air conditioning. Moreover, although the appellant stated that one building has been vacant since 2006, the appellant did not express any intention to demolish or remove this building. The Board finds the buildings located on the subject parcel are structures that are assessable as real property according to the plain language of Section 1-130.

The Board further finds that both the intention test and the integrated plant doctrine support the classification of the subject’s towers and buildings as real property. There is no dispute that the towers and buildings are erected on the subject’s land and are used for the appellant’s business of leasing tower space. The Board finds that the towers and buildings are indispensable to the appellant’s use. The towers are the object of the leases and the appellant explained in its brief that each tower was constructed with an accompanying building or buildings to serve the tower. The appellant asserted it has tower leases in place and is actively operating the business at the subject property. The Board also finds the towers and buildings are intended to be permanent improvements to the real estate. Tower 1 and Building 1 have been in use since the 1950s and Tower 2 and Building 3 have been used since 1996, indicating these types of items have a useful life of several decades. Although Building 2 is vacant, the appellant explained the vacancy was the result of the merger of the two tower lessees and did not assert this building was obsolete or unusable.

Having determined that the towers and buildings are real property, the Board shall consider the appellant’s overvaluation argument. The appellant presented evidence of a March 2020 sale and the board of review presented evidence of a cost analysis to support their respective positions before the Board.

The Board gives little weight to the March 2020 sale as this sale did not have the sufficient necessary elements of an arm’s length transaction. The appellant disclosed the property was sold by the owner and was advertised only by “word of mouth,” indicating this property was not advertised on the open market. Moreover, the appellant purchased only the subject’s

improvements and did not purchase the subject's land. The appellant did not present any evidence of the market value of the subject's land.

The Board finds the best evidence of the subject's value to be the cost analysis presented by the board of review in the subject's 2021 tax year property record card. This property record card shows the subject's assessment increased in 2021 when the subject's assessment was corrected to include improvements that had been omitted from the subject's assessment in prior years, namely, one of the two towers, two of the three buildings, and the fencing, all of which had been erected on the subject property before 2021. The Board understands the appellant's confusion regarding the assessment of items that had not been previously assessed; however, there is no dispute regarding the improvements situated at the subject property. The subject's assessment reflects a market value of \$217,242, including land, which is below the value of \$217,610, including land, presented in the subject's 2021 tax year property record card. Based on this record, the Board finds no reduction in the subject's 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:

July 18, 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

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