

COUNTY OF KANE

Kane County Board of Review
Timothy J. Sullivan, MAI, SRA, Chairman
Constantine "Dino" Konstans, Member
Michael E. Madziarek, CIAO, Member
Mark D. Armstrong, CIAO-M, Clerk



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2023 Session of the Board of Review Meeting Minutes for October 5, 2023 @ 11:00 a.m. Kane County Board of Review Hearing Room A 719 Batavia Avenue, Building C • Geneva, Illinois 60134

- 1. Call to Order.** The Board of Review convened at 11:30 a.m. on Thursday, October 5, 2023 in conference room A of Building C of the Kane County Government Center. The following members were physically present: Chairman Sullivan, Member Konstans, and Member Madziarek. Others physically present included Clerk Armstrong and Chief Deputy Clerk Holly Winter.
- 2. Public Comment on Agenda Items.** No comment was made.
- 3. Discussion on Docket 2023-BACM-0040 (12-27-251-001, Batavia Overseas Club, Inc.).** Chairman Sullivan reported holding an expedited hearing on this docket on Friday, August 29, 2023 at 10:30 a.m. The complainant was the titleholder of record (through Attorney Bryan Kelsey); the respondent was the Supervisor of Assessments. The complainant did not seek a reduction in excess of \$100,000, so no taxing bodies were notified pursuant to 35 ILCS 200/16-55, and there were no intervenors present. The property lines, as shown over a 2022 aerial photograph of the property, is shown as *figure 1*.



Figure 1

Chairman Sullivan further reported The property in question contains 5.679 acres net of right-of-way (6.00 acres if right-of-way is included). Pursuant to 35 ILCS 300/9-145(e), the Board focused on the 5.679-acre site area; there was broad agreement that the 0.33-acre portion encumbered by public right-of-way had a fair cash value of \$0.

Chairman Sullivan further reported that for the 2023 taxable year, the property was valued under 35 ILCS 200/9-145 (the “standard” value). However, based on an application of the complainant, a portion of the property was found to be “real property owned and used by a veterans organization chartered under federal law, on which is located the principal building for the post” under 35 ILCS 200/10-300, which resulted in a reduced valuation for that portion of the property for the 2023 taxable year. The net value is the “alternate” value of the property, which is used for extension and billing purposes:

	1999 EAV	15% of 1999	Standard	Alternate
10-300 Land	\$ 8,728	\$ 1,309	\$ 73,008	\$ 1,309
10-300 Improvements	\$ 8,339	\$ 1,251	\$ 68,625	\$ 1,251
10-300 Total	\$ 17,067	\$ 2,560	\$ 141,633	\$ 2,560
9-145 Land	\$ 15,120		\$ 126,485	\$ 126,485
9-145 Improvements	\$ 7,033		\$ 57,854	\$ 57,854
9-145 Total	\$ 22,153		\$ 184,339	\$ 184,339
All Land	\$ 23,848		\$ 199,493	\$ 127,794
All Improvements	\$ 15,372		\$ 126,479	\$ 59,105
All Total	\$ 39,220		\$ 325,972	\$ 186,899

Chairman Sullivan further reported there was no dispute on valuation methodology and no dispute that the improvements were correctly valued, and was broad agreement among the parties that the south building on *Figure 1* is leased to a third party and thus is ineligible for the preferential tax treatment; the sole dispute is the amount of land that is allocated to the veterans’ post property (and is thus eligible for reduced valuation under 35 ILCS 200/10-300).

- The contention of the complainant is that the lease specifies the southern building alone as the leased premises (Sections 1.1c and 1.1d), and that all other portions of the property are eligible for valuation under 35 ILCS 200/10-300.
- The contention of the respondent is that the lease grants the tenant the use of the entire parking lot (Section 8.2), as well as a large “outdoor venue area”, which includes most of the remainder of the property (Section 35, illustrated on Exhibit C), and that only those portions of the property that are “expressly reserved in this Lease for the exclusive use of the Landlord” (see Section 8.2 of the lease) are eligible for valuation under 35 ILCS 200/10-300.

A discussion of the lease and the statute ensued. The Board noted 35 ILCS 200/10-300 limits the preferential assessment to “real property owned and used by a veterans

organization chartered under federal law, on which is located the principal building for the post.” As ownership was not an issue, the Board then turned to use. The Board members agreed that the legal requirement that the property be “used” by the veterans’ organization did not mean “exclusive” use, as found in other parts of the property tax code (see 35 ILCS 200/15-35(b), 35 ILCS 200/15-37, 35 ILCS 200/15-40(a), and many others). Thus, the respondent’s application was determined to be too narrow.

However, the complainant’s definition of use was overly broad. Clearly, the tenant had a right to use the entire parking lot at any time, and the complainant conceded that when both the veterans’ post and the lessee had events at the same time, there were parking conflicts. And the tenant clearly has the right to use a majority of the landscaped areas as an “outdoor venue area” at any time.

A key provision of the lease is that the tenant must reimburse the landlord for 50% of the costs of common area maintenance, the majority of which consists of the parking lot (Section 1.1q). The Board members noted that aerial photography clearly showed 133 parking spaces in that lot. Therefore, the Board found the best measure of determining the area used by the tenant would include both the tenant’s building and 66 parking spaces. Such a configuration, which would include 1.25 acres of land, is shown in *Figure 2*.

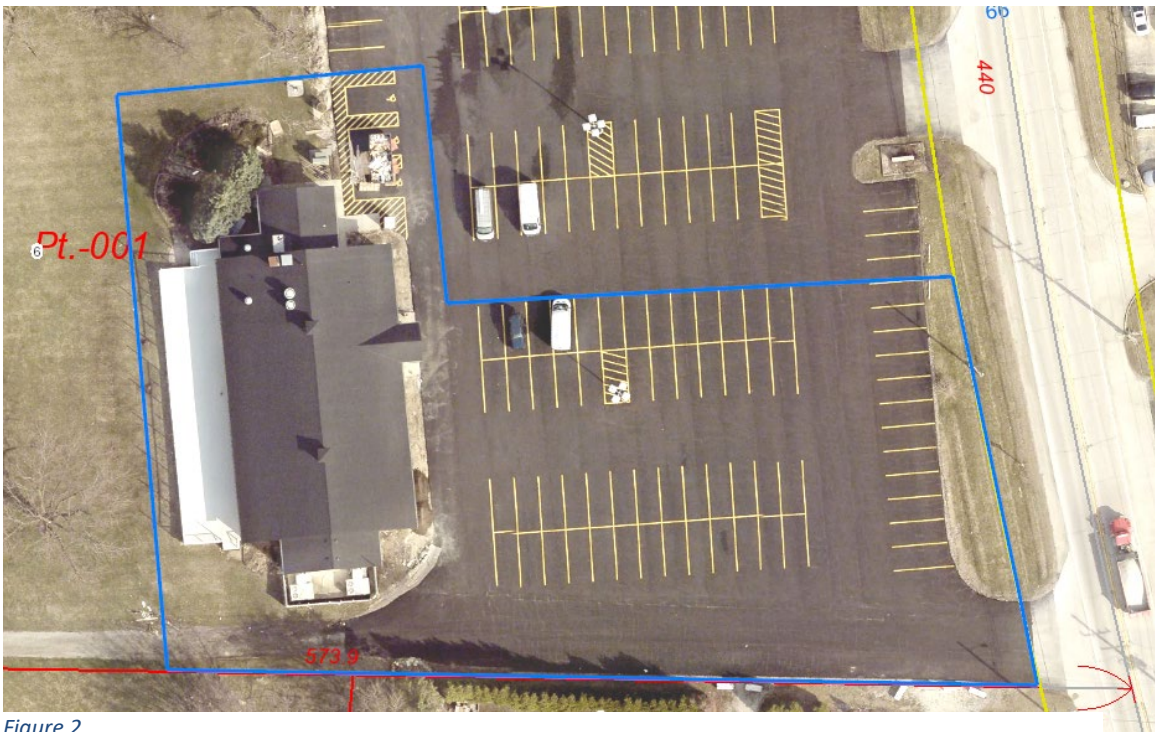


Figure 2

MOTION: For the 2023 taxable year, a 4.429-acre portion to the site and the improvements thereon shall be valued under 35 ILCS 200/10-300, and a 1.25-acre portion of the site shall be valued under 35 ILCS 200.9-145, producing the following values (Sullivan/Madziarek):

	1999 EAV	15% of 1999	Standard	Alternate
10-300 Land	\$ 18,599	\$ 2,790	\$ 155,583	\$ 2,790
10-300 Improvements	\$ 8,339	\$ 1,251	\$ 68,625	\$ 1,251
10-300 Total	\$ 26,938	\$ 4,041	\$ 224,208	\$ 4,041
9-145 Land	\$ 5,249		\$ 43,910	\$ 43,910
9-145 Improvements	\$ 7,033		\$ 57,854	\$ 57,854
9-145 Total	\$ 12,282		\$ 101,764	\$ 101,764
All Land	\$ 23,848		\$ 199,493	\$ 46,700
All Improvements	\$ 15,372		\$ 126,479	\$ 59,105
All Total	\$ 39,220		\$ 325,972	\$ 105,805

The motion passed unanimously.

Clerk Armstrong noted that in his role as Supervisor of Assessments, he would initiate a Certificate of Error for the 2022 reflecting an allocation of 1.25 acres of land for that year, which will result in the following values:

	1999 EAV	15% of 1999	Standard	Alternate
10-300 Land	\$ 18,599	\$ 2,790	\$ 220,122	\$ 2,790
10-300 Improvements	\$ 8,339	\$ 1,251	\$ 68,461	\$ 1,251
10-300 Total	\$ 26,938	\$ 4,041	\$ 288,583	\$ 4,041
9-145 Land	\$ 5,249		\$ 62,125	\$ 62,125
9-145 Improvements	\$ 7,033		\$ 57,716	\$ 57,716
9-145 Total	\$ 12,282		\$ 119,841	\$ 119,841
All Land	\$ 23,848		\$ 282,247	\$ 64,915
All Improvements	\$ 15,372		\$ 126,177	\$ 58,967
All Total	\$ 39,220		\$ 408,424	\$ 123,882

4. Preliminary Decisions on Homestead Exemption Appeals

- a. *09-09-453-010 (Aiello)*: The Board reviewed the evidence presented in the hearing. MOTION: affirm the denial made by the Supervisor of Assessments (Sullivan/Konstans); passed unanimously.
- b. *03-02-451-004 (Gorawara)*: The Board reviewed the evidence presented in the hearing. MOTION: affirm the denial made by the Supervisor of Assessments (Sullivan/Konstans); passed unanimously.
- c. *12-20-253-006 (Leffler)*: The Board reviewed the evidence presented in the hearing. MOTION: affirm the denial made by the Supervisor of Assessments (Madziarek/Sullivan); passed unanimously.

5. Public Commend on Non-Agenda Items. No comment was made.

6. Additional Business. The Board reviewed the hearing held on September 20 in the appeal of an assessment denial for Parcel 12-15-152-016. The Board declined to take any action that would result in a 2022 certificate of error, and directed the Clerk to place it on the Agenda for final action at a future meeting.

The Board discussed several decisions made in recent hearings regarding vacant parcels in the Algonquin Shores neighborhood. The Board expressed its concern about equity in the neighborhood, and directed the Clerk of the Board to place the following dockets back on the Board's agenda for additional action consistent with other hearings: 2023-DUCM-0062, 2023-DUCM-0063, 2023-DUCM-0226, and 2023-DUCM-0232. The Board also directed the clerk to flag the following non-appearance hearing dockets so that consistent and equitable decisions can be made: 2023-DUCM-0210, 2023-DUCM-0210, 2023-DUCM-0211, 2023-DUCM-0212, 2023-DUCM-0224, 2023-DUCM-0225, 2023-DUCM-0227, 2023-DUCM-0228, 2023-DUCM-0229, 2023-DUCM-0230, and 2023-DUCM-0231.

Clerk Armstrong also updated the Board of Review on issues relating to the assessment roll of Burlington Township, and steps the Clerk is taking in his role as Supervisor of Assessments in order to provide for an equitable assessment in that jurisdiction.

7. Recess at the call of the Chairman. MOTION: Recess the 2023 Session of the Kane County Board of Review until reconvened at the call of the Chairman (Sullivan/Madziarek); passed unanimously. The Board recessed at 12:30 p.m.