

State of Illinois

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

DECIDED BY THE BOARD

During Calendar Year 2023

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Chairman

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PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
Printed by Authority of the State of Illinois

Decisions are available on our site:
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State of Illinois
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2023 FOREWORD

In the following pages, representative decisions of the Property Tax Appeal Board are reported. An index is also included. The index is organized by subject matter and is presented in alphabetical sequence. Section 16-190(a) of the Property Tax Code (35 ILCS 200/16-190(a)) requires the Board to publish a volume of representative cases decided by the Board during that year.

Should the reader wish to become more completely informed about an appeal than is permitted by a reading of this volume, he or she need only access the Property Tax Appeal Board's website at www.ptab.illinois.gov and click on the link that says "Appeal Status Inquiry." Access to Board records is addressed in Section 1910.75 of the rules of the Property Tax Appeal Board. Additional Property Tax Appeal Board decisions may also be accessed via the "Appeal Status Inquiry" link.

The reader should note that a docket number is created as follows: the first two digits indicate the assessment year at issue; the digits following the first hyphen identify the particular case; the letter following the second hyphen indicates the kind of property appealed ("R" for residential, "F" for farm property, "C" for commercial property, and "I" for industrial property), and the number which follows the final hyphen indicates the amount of assessed valuation at issue ("1" indicates less than \$100,000 in assessed valuation is at issue, "2" indicates between \$100,000 and \$300,000 is at issue, and "3" indicates \$300,000 or more is at issue). Thus, a docket number might appear as: 19-01234.001-I-3, designating an appeal for the 2019 tax year of an industrial property in which the contesting party is requesting a change in assessment of \$300,000 or more.

The reader should also note that Property Tax Appeal Board appeals are docketed according to the particular appeal form filed by the appellant rather than on the basis of the kind of property that is the subject matter of the appeal. Thus, a property that is actually an income producing or commercial facility might have a letter in the docket number that is inconsistent with the actual property type in the appeal.

The Property Tax Appeal Board anticipates this volume of the Synopsis of Representative Cases will continue to aid in the understanding of the issues confronted by the Board, and the kinds of evidence and documentation that meet with success.

BOARD MEMBERS

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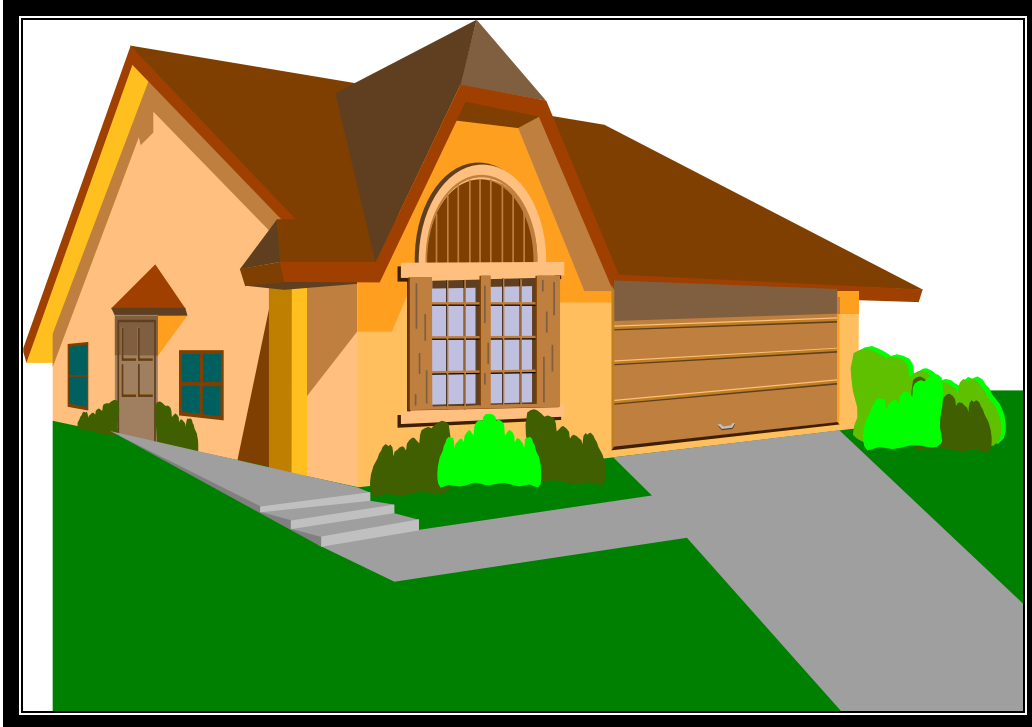
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PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

202 RESIDENTIAL DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
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2023 SYNOPSIS – RESIDENTIAL CHAPTER

2023 RESIDENTIAL CHAPTER

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APPELLANT:	10-15 Realty Inc.
DOCKET NUMBER:	18-50648.001-R-1
DATE DECIDED:	February 2023
COUNTY:	Cook
RESULT:	No Change

The subject property consists of a 4,880 square foot parcel of land improved with a 75-year-old, one and one-half story, masonry, single-family dwelling containing 1,303 square feet of building area. The property is located in Chicago Heights, Bloom Township, Cook County and is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends the assessment of the subject property as established by the decision of the Property Tax Appeal Board for the 2017 tax year should be carried forward to the 2018 tax year pursuant to section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). The appellant disclosed that the subject property is an owner-occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 2017-38698.001-R-1. In that appeal the Property Tax Appeal Board issued a decision lowering the assessment of the subject property to \$6,586 based on an agreement between the parties. No other evidence was presented.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$11,229 and an improvement assessment of \$9,643 or \$7.40 per square foot of building area.

In support of the current assessment, the board of review submitted four equity comparables. These comparables are describe as one or one and one-half story, masonry, single-family dwellings. They range: in age from 71 to 74 years; in size from 1,132 to 1,214 square feet of building area; and in improvement assessment from \$7.70 to \$7.87 per square foot of building area.

Conclusion of Law

The appellant made a contention of law argument based on the previous decision. The Property Tax Appeal Board finds that the assessment as established by the Board for the 2017 tax year should be carried forward to the tax year at issue subject only to equalization as provided by section 16-185 of the Property Tax Code.

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) states in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the

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Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

The Property Tax Appeal Board finds that the appellant is a corporation and cannot occupy a dwelling as a residence. Therefore, the Board finds the appellant failed to meet the requirements of the statute and a reduction based on this contention of law is not warranted. Moreover, the Board finds the equity comparables submitted by the board of review support the subject's current assessment as equitable.

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APPELLANT:	Candelaria Barcenas
DOCKET NUMBER:	21-01070.001-R-1
DATE DECIDED:	September 2023
COUNTY:	Lake
RESULT:	Increase

The subject property consists of a two-story dwelling of vinyl siding exterior construction with 2,411 square feet of living area. The dwelling was constructed in 1997. Features of the home include a basement with finished area,¹ central air conditioning, a fireplace and a 392 square foot garage. The property has an approximately 10,450 square foot site and is located in Grayslake, Avon Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on five comparable sales located within 0.71 of a mile from the subject property. The comparables have sites that range in size from 10,020 to 11,760 square feet of land area and are improved with two-story dwellings of vinyl siding exterior construction that range in size from 2,042 to 2,776 square feet of living area. The dwellings were built from 1992 to 1994. Four comparables have a basement with one having finished area, and one comparable has a crawl space foundation. Each dwelling has central air conditioning and a garage ranging in size from 420 to 483 square feet of building area. Four homes each have one fireplace. The properties sold from April to September 2020 for prices ranging from \$225,000 to \$281,000 or from \$92.96 to \$110.89 per square foot of living area, land included.

The appellant's comparables have total assessments ranging from \$74,992 to \$102,432 or from \$35.60 to \$40.52 per square foot of living area, land included.

In Section III of the appeal petition the appellant reported the subject's most recent sale occurred on September 24, 2021 for \$380,000 or \$157.61 per square foot of living area, land included. Based on this evidence, the appellant requested the subject's total assessment be reduced to a total assessment of \$80,986 (once land and improvement assessments are correctly added) which reflects a market value of \$242,982 or \$100.78 per square foot of living area, land included, when applying the statutory level of assessment of 33.33% .

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$103,448. The subject's assessment reflects a market value of \$311,122 or \$129.04 per square foot of living area, land included, when using the 2021 three-year average median level of assessment for Lake County of 33.25% as determined by the Illinois Department of Revenue.

The board of review critiqued the appellant's comparables contending appellant comparable #5 lacks a basement while comparables #1, #2 and #3 have unfinished basements in contrast to the

¹ Multiple Listing Service (MLS) information on the subject property, submitted by the board of review, reveals the subject's basement was finished in 2016 which was not refuted by the appellant in rebuttal.

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subject's finished basement as depicted in the listing of the subject property submitted by the board of review.

In support of its contention of the correct assessment the board of review submitted information on five comparable sales located within 0.68 of a mile from the subject property. The comparables have sites that range in size from 10,890 to 14,370 square feet of land area and are improved with two-story dwellings of vinyl siding exterior construction that range in size from 2,534 to 2,719 square feet of living area. The homes were built in 1992 or 1993 with comparable #1 having an effective year built of 1997. Each comparable has a basement with three having finished area. Each dwelling has one fireplace and a garage ranging in size from 462 to 630 square feet of building area. Four comparables have central air conditioning. Comparable #2 has an inground swimming pool. The properties sold from September 2020 to December 2021 for prices ranging from \$355,000 to \$425,000 or from \$139.38 to \$165.11 per square foot of living area, land included. The board of review's grid analysis also disclosed the subject property sold in September 2021 for a price of \$380,000 or \$157.61 per square foot of living area, land included. The board of review's submission included a copy of the subject's Multiple Listing Service (MLS) sheet which depicts the property was listed for sale on July 12, 2021 for a price of \$365,000 and closed on September 24, 2021 for a sale price of \$380,000.²

The board of review comparables have total assessments ranging from \$87,629 to \$116,934 or from \$34.40 to \$45.43 per square foot of living area, land included.

Based on this evidence, the board of review requested the subject's total assessment be increased to \$120,507 which reflects a market value of \$361,557 when applying the statutory level of assessment of 33.33%. The board of review further noted this valuation reflects the subject's September 2021 sale price less the 2021 Avon Township equalization factor of 1.0501.

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) [Emphasis added]. The Board finds the totality of the evidence in the record supports an increase in the subject's assessment.

The appellant contends the subject's assessment should be reduced based on comparable sales but also acknowledges the subject property sold in September 2021 for \$380,000. The board of review presented comparable sales data and the sale of the subject in an effort to increase the subject's assessment. The undisputed evidence disclosed the subject sold in September 2021 for a price of \$380,000. Information provided by the board of review, consisting of a listing sheet, indicates the sale had elements of an arm's length transaction which was not refuted by the appellant.

² The record indicates the appellant filed the original appeal on December 4, 2021, less than three months after the subject's September 24, 2021 sale date.

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The parties submitted ten comparable sales for the Board's consideration. The board of review and the appellant acknowledge the subject's September 2021 sale price of \$380,000. The Board gives less weight to appellant comparables #1, #2, #3 and #5 along with board of review comparables #2, #3 and #5 which differ from the subject in foundation type, unfinished basement and/or presence of an inground swimming pool. Besides the subject's sale price, the Board finds the best evidence of market value, in terms of comparable sales, to be appellant comparable #4 and board of review comparables #1 and #4 which are more similar to the subject in location, design, dwelling size and other features. These best comparables sold from June 2020 to December 2021 for prices ranging from \$281,000 to \$425,000 or from \$110.89 to \$165.11 per square foot of living area, including land.

In addition, the Board finds the three most similar comparable sales presented by the parties have total assessments ranging from \$87,629 to \$116,934 or from \$34.40 to \$45.43 per square foot of living area, land included. The subject's current total assessment of \$103,448 or \$42.91 falls within the range of total assessments established by the best comparable sales in this record. Moreover, the board of review's proposed increase in the subject's total assessment to \$120,507 or \$49.98 per square foot of living area, land included, falls above the range of total assessments established by the best comparable sales in the record.

In conclusion, the Board finds the most credible market value evidence in the record is the subject's arm's length sale price of \$380,000 or \$157.61 per square foot of living area, land included. The subject's sale price demonstrates the subject property is underassessed in relation to its assessment, which reflects an estimated market value of \$311,122 or \$129.04 per square foot of living area, land included.

The Illinois Supreme Court has ruled that a contemporaneous sale of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, **the sale of a property during the tax year in question** is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983) [Emphasis added].

Therefore, the Board finds an increase in the subject's assessment is justified, but not to the level requested by the board of review, in order to maintain uniformity of assessments.

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APPELLANT:	Edward Batko
DOCKET NUMBER:	21-02187.001-R-1
DATE DECIDED:	September 2023
COUNTY:	Lake
RESULT:	Increase

The subject property consists of a split-level dwelling¹ of wood siding exterior construction with 1,072 square feet of living area. The dwelling was constructed in 1959. Features of the home include a lower level, central air conditioning, and a 312 square foot garage. The property has a 9,000 square foot site and is located in Deerfield, West Deerfield Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on three comparable sales located within 0.44 of a mile from the subject. The comparables have 9,000 or 11,630 square foot sites that are improved with split-level homes of brick and wood siding exterior construction with either 1,195 or 1,208 square feet of living area. The dwellings were built in 1956. Each home has a lower level, two of which have finished area, and central air conditioning. Two homes have either a 253 or a 275 square foot garage. The comparables sold from March to September 2018 for prices ranging from \$272,000 to \$288,000 or from \$227.62 to \$241.00 per square foot of living area, including land. These comparables have total assessments ranging from \$90,622 to \$95,951 or from \$75.83 to \$80.29 per square foot of living area, land included.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$89,137. The subject's assessment reflects a market value of \$268,081 or \$250.08 per square foot of living area, land included, when using the 2021 three year average median level of assessment for Lake County of 33.25% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales located within 0.28 of a mile from the subject. Comparables #1 and #3 each have a 9,000 square foot site. The comparables are improved with split-level homes of wood siding exterior construction with 1,072 square feet of living area. The dwellings were built in 1958. Each home has a lower level, central air conditioning, and a 312 square foot garage. Two homes each have a fireplace. The comparables sold from October 2020 to July 2021 for prices ranging from \$362,000 to \$500,000 or from \$337.69 to \$466.42 per square foot of living area, including land. These comparables have total assessments ranging from \$101,380 to \$106,972 or from \$94.57 to \$99.79 per square foot of living area, land included.

¹ Although the parties describe the subject as a 1-story home, the subject's property record card and photograph submitted by the board of review, which contains a sketch of the subject home, depicts a lower level, indicating the subject is a split-level home.

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The board of review submitted a memorandum contending that the appellant's comparables sold in 2018 which is too remote from the assessment date to indicate the subject's value as of the assessment date. The board of review argued its comparables sold proximate in time to the assessment and are nearly identical to the subject in features.

Based on this evidence, the board of review requested an increase in the subject's assessment to \$120,655, which would reflect a market value of \$362,872 or \$338.50 per square foot of living area, including land, when using the 2021 three year average median level of assessment for Lake County of 33.25% as determined by the Illinois Department of Revenue.

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 record fails to support a reduction but does support an increase in the subject's assessment.

The record contains a total of six comparable sales for the Board's consideration. The Board gives less weight to the appellant's comparables that sold in 2018, which are dated and occurred less proximate in time to the January 1, 2021 assessment date than the other comparables in this record.

The Board finds the best evidence of market value to be the board of review's comparables, which sold more proximate in time to the assessment date, are identical to the subject in dwelling size, site size, and/or garage size, and are more similar to the subject in age, location, and some features. These most similar comparables sold for prices ranging from \$362,000 to \$500,000 or from \$337.69 to \$466.42 per square foot of living area, including land. The subject's assessment reflects a market value of \$268,081 or \$250.08 per square foot of living area, including land, which is considerably below the range established by the best comparable sales in this record.

These most similar comparables have total assessments ranging from \$101,380 to \$106,972 or from \$94.57 to \$99.79 per square foot of living area, land included. The Board finds the board of review's proposed increase in the subject's assessment to \$120,655 or \$112.55 per square foot of living area, land included, would be greater than the total assessments established by the best comparable sales in this record. In contrast, the subject's current total assessment of \$89,137 or \$83.15 per square foot of living area, land included, falls below the range of total assessments established by the best comparable sales in this record. Based on this analysis, the Board finds an increase in the subject's assessment is warranted, but not to the level requested by the board of review in order to maintain uniformity of assessments.

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APPELLANT:	Dior Realty, Inc.
DOCKET NUMBER:	18-44821.001-R-1
DATE DECIDED:	September 2023
COUNTY:	Cook
RESULT:	Reduction

The subject consists of a two-story dwelling of masonry construction with 5,621 square feet of living area. The dwelling is one year old. Features of the home include a full basement with a formal recreation room, central air conditioning, two fireplaces, and a four-car garage. The property's site is 58,719 square feet, and it is located in Palatine Township, Cook County. The subject is classified as a class 2-09 property under the Cook County Real Property Assessment Classification Ordinance. The subject is owned by a business entity, and, therefore, it is not owner-occupied.

The appellant makes a contention of law as the basis of the appeal. In particular, the appellant argues that the subject should be assessed under section 10-25 of the Property Tax Code, which provides that the assessment of model homes shall be equal to the model home's assessment prior to its construction. In support of this argument, the appellant submitted: 1) a certificate of occupancy for the subject issued by the Village of Inverness dated February 16, 2018, marked for identification as Appellant's Exhibit A; 2) three advertisements for the subdivision where the subject is located, which include photographs of the subject's interior and exterior, marked for identification as Appellant's Exhibits B, C, and D, respectively; 3) the model home application filed with the Cook County Assessor dated March 30, 2018, and the accompanying certified mail receipt postmarked April 6, 2018, marked for identification as Appellant's Exhibit E; and 4) an affidavit naming Mario Di Iorio as the affiant, wherein Mr. Di Iorio states, *inter alia*, that he is an agent of the appellant, and that the subject has been used as a model home since 2018. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$23,877.

The board of review submitted its "Board of Review Notes on Appeal" disclosing that the total assessment for the subject is \$97,344.

In support of its contention of the correct assessment, the board of review submitted information on three equity comparables, and three sale comparables.

In rebuttal, the appellant argued that the board of review did not submit any evidence to refute the appellant's contention of law.

At hearing, counsel for the appellant called Mr. Di Iorio as a witness. Mr. Di Iorio testified consistently with the statements in his affidavit. Mr. Di Iorio also testified that construction on the subject began in 2016. The board of review representative did not cross-examine the witness. Upon questioning from the Board's administrative law judge ("ALJ"), Mr. Di Iorio clarified that the subject was used as a model for other homes in the subdivision, but was also used to showcase various amenities, such as toilets manufactured by Toto, and qualities of a "healthy home" in partnership with the American Lung Association. At the conclusion of the appellant's

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case-in-chief, counsel for the appellant offered Appellant's Exhibits A through E into evidence, which the Board granted without objection from the board of review.

The board of review rested on the evidence previously submitted. Upon questioning from the ALJ, the board of review representative testified that "model home exemptions are not something [the board of review] deals with."

Upon questioning from the ALJ, counsel for the appellant and the board of review representative clarified that the subject's 2016 land assessment was \$10,275 and that there was no improvement assessment for the subject that tax year, and that the subject's 2017 land assessment was \$10,275, but that the subject had an improvement assessment of \$13,602, which resulted in a total assessment for tax year 2017 of \$23,877. The appellant's requested assessment in the instant appeal was based on the subject's 2017 assessment.

Conclusion of Law

The taxpayer makes a contention of law as the basis of the appeal. When a contention of law is the basis of the appeal, the argument must be proven by a preponderance of the evidence. 5 ILCS 100/10-15. The Board finds the appellant did meet this burden of proof, and that a reduction in the subject's assessment is warranted.

Section 10-25 of the Property Tax Code states, in its entirety:

Model homes, townhomes, and condominium units. If the construction of a single family dwelling is completed after December 29, 1986 or the construction of a single family townhome or condominium unit is completed after the effective date of this amendatory Act of 1994, and that dwelling, townhome, or condominium unit is not occupied as a dwelling but is used as a display or demonstration model home, townhome or condominium unit for prospective buyers of the dwelling or of similar homes, townhomes, or condominium units to be built on other property, the assessed value of the property on which the dwelling, townhome, or condominium was constructed shall be the same as the assessed value of the property prior to construction and prior to any change in the zoning classification of the property prior to construction of the dwelling, townhome or condominium unit. The application of this Section shall not be affected if the display or demonstration model home, townhome or condominium unit contains home furnishings, appliances, offices, and office equipment to further sales activities. This Section shall not be applicable if the dwelling, townhome, or condominium unit is occupied as a dwelling or the property on which the dwelling, townhome, or condominium unit is situated is sold or leased for use other than as a display or demonstration model home, townhome, or condominium unit. No property shall be eligible for calculation of its assessed value under this Section for more than a 10-year period. If the dwelling, townhome, or condominium unit becomes ineligible for the alternate valuation, the owner shall within 60 days file with the chief county assessment officer a certificate giving notice of such ineligibility.

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For the purposes of this Section, no corporation, individual, sole proprietor or partnership may have more than a total of 3 model homes, townhomes, or condominium units at the same time within a 3 mile radius. The center point of each radius shall be the display or demonstration model that has been used as such for the longest period of time. The person liable for taxes on property eligible for assessment as provided in this Section shall file a verified application with the chief county assessment officer on or before (i) April 30 of each assessment year for which that assessment is desired in counties with a population of 3,000,000 or more and (ii) December 31 of each assessment year for which that assessment is desired in all other counties. Failure to make a timely filing in any assessment year constitutes a waiver of the right to benefit for that assessment year.

35 ILCS 200/10-25. The Board finds that the appellant has proven each element required under this statute to receive the model home assessment.

According to Mr. Di Iorio's affidavit and testimony, construction of the subject was completed in 2018, well after December 29, 1986, and well before the expiration of the 10-year limit on which model homes can receive the model home assessment. The certificate of occupancy, which was issued in February 2018, and the model home application filed with the Assessor, stating that the appellant began using the subject as a model home in 2018, both confirm Mr. Di Iorio's statements. Mr. Di Iorio's affidavit also states that the subject is not occupied as a dwelling, but as a model home. Mr. Di Iorio testified similarly at hearing. The photographs in the advertisements for the subject's subdivision confirm these statements of Mr. Di Iorio. Mr. Di Iorio further states in the affidavit, and testified at hearing, that the subject has not been sold or leased and that the appellant only had one model home located in Cook County in 2018. No evidence in the record contradicts these statements. Finally, the appellant submitted to the Board the model home application filed with the Assessor on April 6, 2018, which is more than three weeks prior to the April 30, 2018 deadline. The board of review did not contest or refute any of these pertinent facts asserted by the appellant. Therefore, the Board finds that the appellant has proven, by a preponderance of the evidence, that the subject is entitled to the model home assessment, and that a reduction in the subject's assessment is warranted to the assessment dictated by section 10-25 of the Property Tax Code. As construction began in 2016, it is the subject's 2016 assessment that is relevant. As agreed to by the parties at hearing, that assessment was \$10,275.

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APPELLANT:	Martin Friel
DOCKET NUMBER:	19-34813.001-R-1
DATE DECIDED:	September 2023
COUNTY:	Cook
RESULT:	Reduction

The subject property consists of a 7,100 square foot parcel of land improved on January 1, 2019 with a 75-year-old, two-story, frame and masonry, single-family dwelling containing 1,832 square feet of building area. The property is located in Park Ridge, Maine Township, Cook County. The subject property is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant asserts a contention of law, overvaluation, and equity argument as the bases of the appeal. In support of the contention of law argument, the appellant asserts that the subject property was uninhabitable for the lien year in question. The appellant argues the subject was purchased on October 25, 2017 for \$398,000. He asserts the subject has been under construction as of May 20, 2019 and that the property was vacant and uninhabitable since January 1, 2019. In support of this argument, the appellant submitted: black and white photographs of the subject dated May 27, 2019; a building permit dated 5/20/2019; a general affidavit from the appellant attesting that the photographs were taken in May 2019 and that the property is 100% vacant and unused for 2019; and a vacancy affidavit for 2019. The appellant argues the subject's improvement assessment should reflect a 10% occupancy factor.

As to the overvaluation argument, the appellant submitted the warranty deed and settlement statement which discloses the subject was purchased on October 25, 2017 for \$398,000 or \$217.25 per square feet of building area. The statement lists commissions paid to real estate companies.

The appellant submitted six comparables to support the equity argument. These comparables are described as one to two-story, frame or masonry, single-family dwellings. They range: in age from 65 to 111 years; in size from 1,720 to 2,127 square feet of building area; and in improvement assessment from \$1.46 to 7.71 per square foot of building area.

The board of review submitted "Board of Review-Notes on Appeal" which disclosed the total assessment for the subject of \$48,594. The subject's assessment reflects a market value of \$485,940 or \$265.25 per square foot of building area when using the level of assessment for class 2 property of 10% under the Cook County Real Property Assessment Classification Ordinance.

In support of the current assessment, the board of review submitted four comparables. These properties are described as two-story, masonry or frame and masonry, single-family dwellings. They range: in age from 75 to 76 years; in size from 936 to 1,771 square feet of building area; and in improvement assessment from \$17.25 to \$31.54 per square foot of building area. The comparables sold from June 2017 to November 2019 for prices ranging from \$268.01 to \$830.13 per square foot of building area. The board of review also listed the sale of the subject in 2017 for \$398,000.

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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 best evidence of market value to be the purchase of the subject property in October 2017 for a price of \$398,000. The appellant submitted evidence of the sale of the subject. The board of review did not challenge the sale or the arm's-length nature of the transaction and, in fact, listed the sale of the subject in its evidence. Based on this record the Board finds the subject property had a market value of \$398,000 as of the lien date.

The appellant also disputed the assessment of the subject property in part based upon a contention of law. Section 10-15 of the Illinois Administrative Procedure Act (5- ILCS 100/10-15) provides:

Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63.

The appellant's argument is based on Sections 9-160 and 9-180 of the Property Tax Code. Section 9-160 of the Property Tax Code addresses the valuation process and provides:

On or before June 1 in each year other than the general assessment year * * * the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, all new or added buildings, structures or other improvements, the value of which was not included in the valuation of the property for that year, and all improvements which were destroyed or removed. 35 ILCS 200/9-160.

While the subject is currently assessed according to this statute, the appellant argues the subject was uninhabitable due to rehabilitation/construction of the improvement. Section 9-180 of the Code (35 ILCS 200/9-180):

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Pro-rata valuations; improvements or removal of improvements. The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. The owner of the improved property shall notify the assessor, within 30 days of the issuance of an occupancy permit or within 30 days of completion of the improvements, on a form prescribed by that official, and request that the property be reassessed. The notice shall be sent by certified mail, return receipt requested and shall include the legal description of the property. When, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use. The owner of property entitled to a diminution of assessed valuation shall, on a form prescribed by the assessor, within 90 days after the destruction of any improvements or, in counties with less than 3,000,000 inhabitants within 90 days after the township or multi-township assessor has mailed the application form as required by Section 9-190, file with the assessor for the decrease of assessed valuation. Upon failure so to do within the 90 day period, no diminution of assessed valuation shall be attributable to the property. Computations under this Section shall be on the basis of a year of 365 days. (Source: P.A. 91-486, eff. 1-1-00.)

The appellant has submitted sufficient evidence to show that the subject was not habitable based on the construction/renovation of the property since May 27, 2019. The Board finds the subject was habitable for 146 days of the year and should be assessed for those days. Using the market value established by the sale of the subject, the Board finds a reduction in the assessment based on the sale of the subject and its rehabilitation is warranted. The Board further finds the subject is equitably assessed.

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APPELLANT:	Eric & Amanda Hamilton
DOCKET NUMBER:	21-05526.001-R-1 thru 21-05526.002-R-1
DATE DECIDED:	January 2023
COUNTY:	Kane
RESULT:	No Change

The parties appeared before the Property Tax Appeal Board on November 17, 2022 for a hearing at the Kane County Government Center in Geneva pursuant to prior written notice dated September 7, 2022. Appearing on behalf of the appellants was attorney James G. Militello III, together with their witness, Brent Tarter, and appearing on behalf of the Kane County Board of Review was Michelle Abell, Kane County Board of Review Member.

The subject property consists of a 2-story dwelling of stucco exterior construction with 2,499 square feet of living area. The dwelling was constructed in 2016. Features of the home include a basement, central air conditioning, a fireplace and a 2-car garage. The property has an approximately 6,534 square foot, or 0.15 acre, riverfront site and is located in Geneva, Geneva Township, Kane County.¹

This appeal is based on a contention of law. In support of this argument, the appellants submitted a brief contending the re-assessment of the subject property is in violation of the uniformity clause of the Illinois Constitution. The appellants submitted documentation of the subject's 2021 tax year assessment (Appellants' Exhibit B), which indicates that the 2020 tax year assessment was \$227,355, and that both the township assessor and the supervisor of assessments determined an assessment of \$227,335 for the 2021 tax year, which was equalized to \$230,879. The appellants disclosed that the subject sold in June 2021 for \$1,095,000 and argued that the subject's assessment was increased for the 2021 tax year to reflect this sale price. The appellants presented an excerpt from the 2021 Instructional Assembly for Kane County Township Assessors manual (Appellants' Exhibit C), asserting at pages 7 and 8 that this manual prohibits sale chasing.

The appellants also submitted a Proposed Value Change Notice issued by the Kane County Board of Review dated October 15, 2021 (Appellants' Exhibit A), which describes "Revalue, Upgrade/Remodel" as the reasons for a proposed increase in the subject's assessment to \$357,664. Subsequently, after an appeal, the board of review issued a Notice of Findings dated January 7, 2022 (Appellants' Exhibit D), which describes "Revalued Based On Evidence Submitted, For One (1) Year Only" as the reason for the change in the assessment of the subject by the board of review to \$316,635.

At hearing, Militello argued the re-assessment was in violation of the uniformity clause of the Illinois Constitution. Militello contended that the re-assessment appears to be sales chasing and noted that the township assessor was not present to testify regarding how the property was re-assessed.

¹ The subject property has a second parcel, 12-03-227-037, which contains only vacant land and is not contested. The appellants sought to include this second parcel in this appeal in rebuttal, which amendment to their appeal petition is untimely, and thus, the second parcel has not been added to this appeal.

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Militello presented the appellants' witness, Tarter, who testified that he is a paralegal at Prime Law Group, LLC,² has worked on property tax appeals for 11 years, and is qualified as a CIAO (Certified Illinois Assessing Official). Tarter stated he has previously testified in Property Tax Appeal Board and board of review hearings.

Tarter testified that the documents presented by the appellants show that the supervisor of assessments calculated the subject's 2021 equalized assessment as \$230,879, which is its 2020 assessment plus the 2021 equalization factor.³ Tarter further testified that the appellants received notice of a change in the subject's assessment to \$357,664, which they appealed, resulting in a re-assessment of \$316,635, as shown in the 2021 tax year Notice of Findings of the board of review. Upon questioning by the Administrative Law Judge, Tarter stated that the subject home has had no additions or improvements since 2016.

Based on this evidence the appellants requested a reduction in the subject's assessment to \$230,879, which is the subject's 2020 tax year assessment plus the 2021 equalization factor of 1.01550.

The board of review submitted its "Board of Review Notes on Appeal" disclosing an assessment for the subject of \$316,635. The total assessment of the subject and the second parcel which is not a part of this appeal⁴ is \$320,535, which reflects a market value of \$961,701 or \$384.83 per square foot of living area, with both parcels of land included, when applying the statutory level of assessment of 33.33%. The board of review disclosed that 2019 was the first year of the general assessment cycle and that a factor of 1.01550 was applied in Geneva Township for the 2021 tax year.

In support of its contention of the correct assessment the board of review submitted a letter, signed by the township assessor and addressed to the board of review, contending that land in the subject's neighborhood is assessed on a site basis. The township assessor asserted that the subject home was built in 2016 for a total construction cost of \$485,000 with an estimated retail value of \$600,000 according to the permit; however, after the June 2021 sale, the township assessor viewed listing photographs of the interior of the subject home and determined that the subject home was undervalued for assessment purposes due to the interior condition of the subject home. Copies of the listing photographs were presented with the township assessor's letter.

At hearing, Abell argued that the township assessor became aware of new information regarding the subject property after it sold. Abell asserted that the township assessor uses a mass appraisal method to assess property, but also reviews new information to determine fair assessments. Abell stated that the township has a wide range of properties and information gleaned from sales assists assessing officials in determining fair assessments. Abell questioned why assessing officials may not use recent sale information whereas a property owner may seek a reduction based on a recent sale price.

² Prime Law Group, LLC is the law firm representing the appellants in this appeal.

³ Tarter misstated the 2021 equalization factor. The 2021 equalization factor of 1.01550 presented by the board of review results in the equalized assessment of \$230,879 described by Tarter.

⁴ The board of review disclosed the second parcel had an assessment of \$3,900 for the 2021 tax year.

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Upon cross-examination, Abell acknowledged she had not viewed the subject property and had not prepared the evidence presented by the board of review. Abell stated she did not know whether the township assessor had inspected the property since its construction in 2016, but stated that the township assessor does not typically view the interior of a home after its construction. Abell clarified that the listing photographs were reviewed to determine whether the information being used to assess the subject property was correct.

Abell stated she did not know whether any other properties in the subject's neighborhood were also re-assessed in 2021 and acknowledged there was no evidence in the record regarding any such re-assessment of the subject's neighborhood. Upon questioning by the Administrative Law Judge, Abell contended that the township assessor generally considers other sales in the same neighborhood for assessment purposes, but acknowledged she did not know what sales or information may have been considered in re-assessing the subject property except for the listing photographs. Abell acknowledged that there is no evidence of any such sales or information in the record other than the subject's listing photographs.

Abell stated that the next quadrennial assessment cycle begins in 2023 and agreed that neighborhoods are to be revalued at that time. Abell agreed that in a non-general assessment year a property's assessment would be adjusted from the prior year only by the equalization factor absent other information.

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

In rebuttal, Tarter testified that based on his experience in property tax appeals, assessing officials may not use a sale price as a punitive measure to increase a property's assessment but property owners may seek a reduction based on a sale price. Militello argued that the Walsh case presented by the appellants (Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998)) requires assessing officials to wait until the general assessment year to re-assess properties.

Conclusion of Law

The appellants' argument is based on a contention of law regarding a violation of the uniformity clause of the Illinois Constitution. When a contention of law is raised, the burden of proof is a preponderance of the evidence. (See 5 ILCS 100/10-15). The standard of proof when asserting a lack of uniformity is clear and convincing evidence. Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 234, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998) (citing Kankakee County Bd. of Review v. Property Tax Appeal Bd., 131 Ill. 2d 1, 20, 544 N.E.2d 762, 136 Ill. Dec. 76 (Ill. 1989)). The Board finds the appellants did not meet either of these burdens of proof and a reduction in the subject's assessment is not warranted.

This appeal concerns the appellants' challenge to a re-assessment of property in a non-general assessment year by the board of review on its own motion pursuant to Section 16-30 of the Property Tax Code (35 ILCS 200/16-30). The Board finds that the board of review issued a Proposed Value Change Notice dated October 15, 2021 (Appellants' Exhibit A) to \$357,664 due to "Revalue, Upgrade/Remodel" and the board of review concluded an assessment for the subject of \$316,635 as described in the Notice of Findings dated January 7, 2022 (Appellants' Exhibit D)

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after an appeal. The Board further finds 2019 was the first year of the general assessment cycle and a factor of 1.01550 was applied for the 2021 tax year in Geneva Township.

Section 16-30 provides in relevant part that “the board of review may upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just.” Furthermore, Section 16-55(e) of the Property Tax Code (35 ILCS 200/16-55) provides:

(e) The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department.

The Board finds that these statutes grant the board of review broad discretion and authority, by its own motion or by written complaint, in any year to review the assessment of any property, and revise and correct that assessment as appears to be just. However, the board of review’s action may not result in the assessment of a property at a higher percentage of fair cash value than the other properties.

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, 16, 20-21, 544 N.E.2d 762, 136 Ill. Dec. 76 (Ill. 1989). The Illinois Constitution requires both uniformity in the level of taxation and in methodology.⁵ Assessing officials may not use a different basis to assess or revise the assessment of one property to achieve uniformity, such as a recent sale of that property. Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 236, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998).

The Board finds the evidence does not demonstrate that the subject’s assessment was based on the sale price of the subject property. The parties agree that the subject property sold in June 2021 for \$1,095,000, which neither party challenged as an arm’s length transaction nor questioned as reflective of the subject’s market value. The total assessment for the subject and the second parcel reflects a market value of \$961,701 or \$384.83 per square foot of living area, with all land included, when applying the statutory level of assessment of 33.33%, which is significantly less than the sale price of \$1,095,000.

Abell asserted at hearing that the subject’s assessment was revised and corrected based on the listing photographs which revealed new information regarding the subject home to the assessing officials. The appellants did not dispute this contention, but rather argued that the re-assessment was untimely as assessing officials could have inspected the subject property at any time after its construction in 2016 and there had been no changes to the subject property since its construction

⁵ Section 4 of Article IX of the Illinois Constitution provides that real estate taxes “shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law.” Ill. Const., Art. IX, § 4(a).

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in 2016. This argument, however, ignores the fact that nothing in the Property Tax Code mandates that assessing officials be allowed interior access to properties within their jurisdiction.

More importantly, the appellants did not demonstrate that the subject's assessment is inequitable. The appellants did not present any evidence to show that properties in the subject's neighborhood or township are not uniformly assessed or that the board of review's action resulted in the assessment of the subject at a higher percentage of fair cash value than other properties in its neighborhood or township.

In the Walsh case relied upon by the appellants, the court found that properties in the township were not uniformly assessed (with sales-assessment ratios ranging from 7% to 68%), including the subject property (at 11.5%). Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 234-35, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998). Despite this lack of uniformity, the court held that the board of review may not take action to adjust one property's assessed valuation to reflect 33% of its fair cash value by assessing it on a different basis (e.g., its recent sale price) from other properties in the township, thereby resulting in an assessment of that property at a greater percentage of fair cash value than other properties in the township as was contended by the appellant. Id. at 235-36. The Walsh case did not involve a re-assessment to reflect the property's condition or other features or amenities not previously assessed or known by the assessing officials.

Consequently, the Board finds the assessment of the subject property by the board of review was within its authority under Section 16-30 of the Property Tax Code and did not violate the uniformity clause of the Illinois Constitution. Based on this record, the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	Czeslawa Kuprianczyk
DOCKET NUMBER:	19-43689.001-R-1
DATE DECIDED:	June 2023
COUNTY:	Cook
RESULT:	No Standing

The appeal was timely filed pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) after the issuance of a decision from the Cook County Board of Review. The instant appeal challenges the assessment for tax year 2019. The appeal lists Czeslawa Kuprianczyk as the appellant (the “Named Appellant”).

The Named Appellant contends assessment inequity as the basis of the appeal. In support of this argument, the Named Appellant submitted information on four equity comparables. Based on this evidence, the Named Appellant requested a reduction in the subject’s assessment to \$16,506.

The board of review submitted its “Board of Review Notes on Appeal” disclosing that the total assessment for the subject is \$32,955. The board of review also submitted a Motion to Dismiss for Lack of Standing (the “Motion”) with the Notes on Appeal. The Motion states that the Named Appellant was not the owner of the subject property as of the relevant lien date of January 1, 2019. In support of the Motion, the board of review submitted a trustees’ deed, showing that the Named Appellant, as successor trustee, transferred ownership in the subject property to Rajinder Singh and Davinder Kaur (the “Purchasers”) on April 18, 2018. The board of review also submitted a printout from the Cook County Recorder of Deeds’ website showing that the trustees’ deed was recorded on May 7, 2018, listing Peter Kuprianczyk TR Trust, as the grantor, and the Purchasers as the grantees. Based on this evidence, the board of review requested that the appeal be dismissed for lack of standing.

The Named Appellant was notified of the Motion by letter dated March 11, 2021, and was given 30 days to file rebuttal evidence. The Named Appellant did not file anything in response to the Motion.

The owner of real property on January 1 of any year is liable for the taxes on the property for that year. 35 ILCS 200/9-175 (West 1996). However, parties may, through clear agreement, shift the burden of liability. First National Bank v. Mid-Central Food Sales, Inc., 129 Ill. App. 3d 1002, 1005, 473 N.E.2d 372, 374, 85 Ill. Dec. 4 (1984). The Illinois Administrative Code (Administrative Code) provides that “a taxpayer or owner of property” may file with the Property Tax Appeal Board an appeal of a decision of a board of review pertaining to the assessment of property for taxation purposes. 86 Ill. Adm. Code § 1910.10(c) (1997). Under the Administrative Code, any taxpayer or property owner dissatisfied with the board of review’s decision pertaining to “the assessment of his property may become a party to the appeal” to the PTAB. 86 Ill. Adm. Code § 1910.60(a) (2000). “The term ‘owner,’ as applied to land, has no fixed meaning applicable under all circumstances and as to any and every enactment. *** Title refers only to a legal relationship to the land, while ownership is comparable to control and denotes an

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interest in the real estate other than that of holding title thereto.” People v. Chicago Title & Trust Co., 75 Ill. 2d 479, 489, 389 N.E.2d 540, 544, 27 Ill. Dec. 476 (1979). Especially in tax law, “[t]he key elements of ownership are control and the right to enjoy the benefits of the property. *** Revenue collection is not concerned with the ‘refinements of title’; it is concerned with the realities of ownership.” Chicago Title, 75 Ill. 2d at 489, 389 N.E.2d at 544.

Kankakee County Bd. of Review v. Property Tax Appeal Bd., 316 Ill. App. 3d 148, 151-52 (3d Dist. 2000). As the Appellate Court stated, while revenue collection is concerned with the realities of ownership, and not the “refinements of title,” the parties must provide a “clear agreement” that the burden of liability for the payment of property taxes has shifted. Id. The record in this appeal shows that title did transfer prior to the lien date of January 1, 2019, but there is no evidence that the parties to that transaction sought to shift the liability for paying the property taxes for the subject. As such, the Named Appellant, as the previous owner, has no interest in the outcome of this appeal, and lacks standing to pursue it. For these reasons, the Board grants the Motion filed by the board of review and dismisses this appeal.

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APPELLANT:	<u>Roger Medema</u>
DOCKET NUMBER:	<u>21-02201.001-R-3</u>
DATE DECIDED:	<u>September 2023</u>
COUNTY:	<u>Lake</u>
RESULT:	<u>No Change</u>

The subject property consists of a 2-story dwelling of brick exterior construction with 6,678 square feet of living area. The dwelling was constructed in 1905. Features of the home include a basement with finished area,¹ central air conditioning, four fireplaces, an attic with finished area, and a 638 square foot garage. The property has a 70,040 square foot or 1.6079 acre, site and is located in Lake Forest, Shields Township, Lake 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 May 21, 2021 for a price of \$1,190,000. The appellant completed Section IV – Recent Sale Data of the appeal petition asserting Barberry Development, LLC was the seller, the sale was not between related parties, the property was sold through a realtor, the property was listed for sale through the Multiple Listing Service for 313 days, and the sale was not due to foreclosure or by contract for deed. In support of the transaction, the appellant submitted a copy of the settlement statement describing a price of \$1,190,000 but did not disclose the payment of any realtor's commission. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$1,068,245. The subject's assessment reflects a market value of \$3,212,767 or \$481.10 per square foot of living area, land included, when using the 2021 three year average median level of assessment for Lake County of 33.25% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on five comparable sales located within 0.60 of a mile from the subject. The parcels range in size from 40,210 to 130,240 square feet of land area and are improved with 1.75-story, 2-story, or 2.5-story homes of brick, stucco, wood siding, or wood siding and brick exterior construction. The homes range in size from 5,802 to 7,295 square feet of living area and were built from 1912 to 1933 with comparable #4 having an effective age of 1946. Each home has a basement, two of which have finished area, central air conditioning, three to nine fireplaces, and one or two garages ranging in size from 275 to 925 square feet of building area. Comparable #5 has a greenhouse. The comparables sold from May 2019 to October 2021 for prices ranging from \$1,740,000 to \$3,900,000 or from \$299.90 to \$582.15 per square foot of living area, including land.

The board of review submitted a letter from the township assessor's office contending that the seller, Barberry Development, LLC, is owned by the buyers, Roger and Linda Medema. The township assessor's office presented an entity search printout from the Illinois Secretary of State's

¹ Additional details regarding the subject not reported by the appellant are found in the subject's property record card submitted by the board of review and were not refuted by the appellant in written rebuttal.

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office identifying Roger and Linda Medema as the managers of the LLC and a recorded mortgage dated August 15, 2006 for the subject property identifying Roger and Linda Medema as the members of the LLC. The township assessor's office further contended that the subject was last listed for sale in February, 2021 and noted that the settlement statement shows no payment of a realtor's commission. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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.

The appellant presented evidence of a 2021 sale of the subject property and the board of review presented five comparable sales in support of their respective positions before the Board. The Board gave little weight to the 2021 sale of the subject, which did not have the elements of an arm's length transaction as it was sold between related parties. Although the appellant asserted the parties to the sale were not related in the appeal petition, the board of review presented evidence demonstrating the buyers are the members and managers of the seller limited liability company, which was not refuted by the appellant in written rebuttal.

The Board finds the best evidence of market value in the record to be the board of review's comparables #1, #4, and #5, which sold proximate in time to the assessment date and are similar to the subject in dwelling size, location, and some features but have varying degrees of similarity in site size and age/effective age. The Board gave less weight to the board of review's comparables #2 and #3, which sold less proximate in time to the assessment date than the other comparables and/or differ substantially from the subject in dwelling size and garage count.

The best comparables sold for prices ranging from \$2,500,000 to \$3,900,000 or from \$374.14 to \$582.15 per square foot of living area, including land. The subject's assessment reflects a market value of \$3,212,767 or \$481.10 per square foot of living area, including land, which is within the range established by the best comparable sales in this record. Based on this record and after considering appropriate adjustments to the best comparables for differences from the subject, the Board finds the subject's assessment is reflective of market value and a reduction in the subject's assessment is not justified.

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APPELLANT:	John & Barbara Mullen
DOCKET NUMBER:	20-05574.001-R-1
DATE DECIDED:	April 2023
COUNTY:	Kane
RESULT:	Reduction

The subject property consists of a two-story dwelling of aluminum siding exterior construction with 2,696 square feet of living area.¹ The dwelling was constructed in 2006. Features of the home include a basement with finished area, central air conditioning, a fireplace and a two-car garage with 483 square feet of building area. The property has an approximately 5,663 square foot site and is located in Geneva, Blackberry Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on January 17, 2020 for a price of \$355,000 or \$131.68 per square foot of living area, including land. The appellants' counsel reported that the subject property was purchased from the owner of record, the parties to the transaction were not related and the property was advertised using a realtor. The appellants submitted a copy of the Multiple Listing Service (MLS) listing sheet depicting the property had been on the market for 28 days. The MLS indicated that prior to the final purchase price of \$355,000, the subject property was originally listed on November 9, 2019 for an asking price of \$359,900. A copy of the Settlement Statement reflects the purchase price, the date of sale and identified the seller as Mary Ann Martin, trustee of the Mary Ann Martin Living Trust dated July 14, 2016. The Settlement Statement also disclosed that commissions were paid to two realty agencies. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$120,084. The subject's assessment reflects a market value of \$360,396 or \$133.68 per square foot of living area, land included, when using the 2020 three-year average median level of assessment for Kane County of 33.32% as determined by the Illinois Department of Revenue.

On the Notes, the board of review agrees the subject sold in January 2020 for a price of \$355,000. The board of review explained that it reduced the subject's assessment to \$120,084 reflecting an estimated market value of \$360,288. After analyzing the subject's sale, the assessor's evidence and considering the 2020 Blackberry Township equalization factor of 1.0149, the board of review argued the subject's assessment should not be lowered below the board of review reduction.

In further response, the board of review submitted a letter prepared by the Blackberry Township Assessor. The assessor contends an email was sent to the appellants' attorney and a proposal was

¹ The description of the subject property was obtained from the Multiple Listing Service (MLS) listing sheet provided by the appellants and the information presented by the board of review in its grid analysis. The appellants failed to complete Section III describing the subject and the board of review did not provide a copy of the property record card as required by the rules of the Property Tax Appeal Board (85 Ill.Admin.Code §1910.40(a)) for the subject property.

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made to lower the subject's assessment to \$120,084. This offer reflects the sale price of \$355,000 plus the application of the 2020 township equalization factor of 1.0149. A copy of the stipulation agreement is included with the assessor's evidence. According to the assessor the stipulation was declined by the appellants' attorney.

In further support of its contention of the correct assessment, the board of review, through the township assessor's office, submitted information on three comparable sales located in the same assessment neighborhood code as the subject and within .26 of a mile from the subject property. The comparables have sites that range in size from approximately 4,792 to 5,119 square feet of land area. The comparables are improved with two-story dwellings of brick and vinyl siding, aluminum siding and stone or aluminum siding and brick exterior construction ranging in size from 2,588 to 2,707 square feet of living area. The dwellings were built from 2000 to 2015. The comparables each have a basement, two of which have finished area. Each comparable has central air conditioning, a fireplace and a garage ranging in size from 460 to 691 square feet of building area. The comparables sold from July to December 2019 for prices ranging from \$352,000 to \$415,000 or from \$136.01 to \$153.31 per square foot of living area, land included.

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

In written rebuttal, the appellants' counsel argued that the inclusion of a township equalization factor is not appropriate in this appeal because it is already included in the assessment being appealed. Counsel asserted that pursuant to 35 ILCS 200/16-80 of the Property Tax Code, the county is required to maintain the prior tax year county decision, plus township equalization, for the remainder of the general assessment period. In this case there was no prior county decision to maintain and thus no township equalization factor should be included. In addition, a township equalization factor may be applied for Property Tax Appeal Board (PTAB) "rollover" appeals where PTAB granted a reduction in the prior tax year and the tax year being appealed is in the same general assessment period. In this case there was no prior PTAB decision and thus no township equalization factor should be included. For these reasons, counsel requested a reduction in the subject's assessment to reflect the purchase price.

Conclusion of Law

The appellants contend 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant presented the January 2020 purchase price of the subject and the board of review acknowledged the purchase but also supplied three comparable sales in support of their respective positions before the Property Tax Appeal Board.

The Board finds the best evidence of market value to be the purchase of the subject property in January 2020 for a price of \$355,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellants partially completed Section IV -

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Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open market with the Multiple Listing Service. In further support of the transaction, the appellants submitted a copy of the MLS sheet indicating that the subject had been on the market for 28 days. Additionally, a copy of the Settlement Statement submitted by the appellants depicts commissions were paid to two realty agencies.

The board of review did not dispute the arm's length nature of the subject's sale transaction. The Property Tax Appeal Board has given less weight to the three comparable sales presented by the board of review. The Board finds these comparable sales do not overcome the subject's arm's length sale transaction.

The Illinois Supreme Court has held that a contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). The Board finds the subject's purchase price of \$355,000 is below the market value reflected by the assessment of \$360,396, land included.

The Board further finds that the board of review agreed that the January 2020 sale was an arm's length transaction and determined the purchase price was sufficient to reduce the subject's assessment to reflect that transaction plus the 2020 township equalization factor. However, the Property Tax Appeal Board finds the argument by the assessing officials that the subject's 2020 sale price should be increased by 1.49% due to the Blackberry Township equalization factor of 1.0149 is unsupported and unpersuasive.

The Board finds that the Kane County Board of Review did not present any substantive evidence of subsequent events that occurred which would cause a change in the subject's market value from its January 17, 2020 purchase price as of January 1, 2020 by 1.49%.

Furthermore, the Board takes judicial notice of the purpose of equalization factors as set forth in the Illinois Department of Revenue publication, PTAX-1004, The Illinois Property Tax System, page 17, concerning how uniformity in assessments is achieved by applying equalization factors:

The assessment/sales ratio study shows **whether or not assessments within a given area actually average 33 1/3 percent of market value**. If the results of the study indicate that assessments are either higher or lower than 33 1/3 percent, a blanket percentage increase or decrease, called an "equalization factor" or "multiplier" is calculated and applied to all non-farm property to bring the level of assessment to 33 1/3 percent. The application of this uniform percentage increase or decrease to assessed values is called "equalization." [Emphasis added.]

Here, where the subject's sale occurred 17 days after the assessment date at issue of January 1, 2020 and in the absence of other market value evidence suggesting that the sale price was no longer reflective of market value, the Property Tax Appeal Board finds that the application of the equalization factor is not appropriate to this arm's length sale that occurred on January 17, 2020 given the purposes for equalization.

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In conclusion, the Board finds the subject property had a market value of \$355,000 as of January 1, 2020. Since market value has been determined the 2020 three-year average median level of assessment for Kane County of 33.32% shall apply. 86 Ill.Admin.Code §1910.50(c)(1).

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APPELLANT:	<u>Jungho Na</u>
DOCKET NUMBER:	<u>21-04860.001-R-1</u>
DATE DECIDED:	<u>November 2023</u>
COUNTY:	<u>Lake</u>
RESULT:	<u>No Change</u>

The subject property reportedly is an owner-occupied two-story dwelling of brick exterior construction with 2,377 square feet of living area. The dwelling was constructed in 1966. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a 583 square foot garage. The property has a 10,074 square foot site¹ and is located in Libertyville, Libertyville Township, Lake County.

The appellant contends assessment inequity concerning the subject's land assessment as the basis of the appeal. In support of this argument, the appellant submitted information on twelve equity comparables located in the same assessment neighborhood code as the subject and within .39 of a mile from the subject. The comparable parcels, which are improved, range in size from 10,222 to 10,548 square feet of land area. Appellant's comparable #1 has a land assessment of \$34,579 or \$3.38 per square foot of land area, whereas the remaining ten comparables presented by the appellant have land assessments of \$57,632 or from \$5.46 to \$5.63 per square foot of land area.

For this 2021 assessment appeal before the Property Tax Appeal Board, the appellant included a copy of the Notice of Findings issued by the Lake County Board of Review for tax year 2021. As the "basis" for the board of review's no change decision, the document sets forth:

Analysis of the comparables submitted indicates that the assessment of the subject property on a price per square foot basis falls within an acceptable range. The present assessment reflects a prior board of review decision plus the application of appropriate township factor(s).

Based on the foregoing evidence, the appellant requested a reduced land assessment of \$55,413 or \$5.50 per square foot of land area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$140,685. The subject property has a land assessment of \$57,632 or \$5.72 per square foot of land area.

In response to the appeal, the board of review submitted a memorandum reporting that the Lake County Board of Review reduced the assessment of the subject property for tax year 2020 based upon the 2019 sale of the property as shown in the attached property record card. The board of review further reports that 2019 was the first year of the general assessment cycle for the subject property. As such and in accordance with Section 16-80 of the Property Tax Code (35 ILCS 200/16-80), the assessment of the subject property for tax year 2021 reflects the assessments of

¹ The Board finds the best evidence of the subject's site size was set forth in the property record card supplied by the board of review which was not refuted by the appellant.

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the property for tax year 2020 and 2021 with equalization applied.² Thus, in accordance with Sec. 16-80 of the Property Tax Code, the board of review contends that the current assessment is proper for owner-occupied residential real estate.

Furthermore, in support of its contention of the correct land assessment and in response to the appellant's inequity argument, the board of review submitted information on three improved land equity comparables which are the same properties as appellant's comparables #5, #8 and #6, respectively. The comparables are located within the same neighborhood code as the subject and within .24 of a mile from the subject. The improved parcels range in size from 10,510 to 10,550 square feet of land area according to the board of review's grid analysis. These parcels each have land assessments of \$57,632 or from \$5.46 to \$5.48 per square foot of land area. Based on the foregoing evidence and legal argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The taxpayer contends assessment inequity concerning the land as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's land assessment is not warranted on this record.

The parties submitted a total of twelve land equity comparables, three of which were common to both parties, to support their respective positions on assessment equity before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparable #1 which appears to be an outlier given the land assessment data for the remaining eleven comparables in the record.

The Board finds the parties' remaining eleven land assessment equity comparables each have a total land assessment of \$57,632, identical to the total land assessment of the subject parcel, despite having lot sizes ranging from 10,228 to 10,500 square feet of land area, or from \$5.46 to \$5.63 per square foot of land area. The subject's land assessment of \$57,632 is identical to that of these eleven comparables but based on the subject's smaller lot size of 10,074 square feet results in a land assessment of \$5.72 per square foot, which falls slightly above the range established by the best comparables in this record on a square foot basis. The Board finds accepted real estate theory, referred to as the economies of scale, provides that, all things being equal, as the size of a property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. Thus, it would be expected, all things being equal, that the subject's higher per-square-foot land assessment is reasonable given its smaller lot size relative to the best comparables with larger lot sizes.

² The property record card depicts the 2020 final assessment of the subject property based upon board of review decision was \$138,320. The Notes on Appeal depict that an equalization factor of 1.0171 was applied in 2021 to non-farm properties in Libertyville Township. ($\$138,320 \times 1.0171 = \$140,685$).

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Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land was inequitably assessed and a reduction in the subject's land assessment is not justified.

Furthermore, the Board finds that Section 16-80 of the Property Tax Code (35 ILCS 200/16-80) is controlling in this appeal. Section 16-80 states in relevant part:

Reduced assessment of homestead property. In any county with fewer than 3,000,000 inhabitants, if the board of review lowers the assessment of a particular parcel on which a residence occupied by the owner is situated, **the reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period** as provided in Sections 9-215 through 9-225, unless the taxpayer, county assessor, or other interested party can show substantial cause why the reduced assessment should not remain in effect, or unless the decision of the board is reversed or modified upon review. [Emphasis added.]

For this 2021 assessment appeal before the Property Tax Appeal Board, the appellant included a copy of the Notice of Findings issued by the Lake County Board of Review for tax year 2021. This document sets forth in pertinent part that the “present assessment reflects a prior board of review decision plus the application of appropriate township factor(s).”

The documentation in the record reflects that the subject’s 2020 assessment was \$138,320 and increased in 2021 to \$140,685 based on the 2021 Libertyville Township equalization factor of 1.0171. The Board further finds on this record that appellant did not argue or otherwise show substantial cause why the reduced assessment should not remain in effect, subject to equalization.

Based on the above facts and legal argument put forth by the board of review, the Property Tax Appeal Board finds no reduction in the subject’s assessment is warranted as the subject’s 2021 tax year assessment is equitable and properly reflects the subject’s 2020 assessment of \$138,320 with application of the Libertyville Township equalization factor of 1.0171 as provided by Section 10-80 of the Property Tax Code (35 ILCS 200/10-80).

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APPELLANT:	Mary O’Sullivan Snyder
DOCKET NUMBER:	21-05358.001-R-1
DATE DECIDED:	July 2023
COUNTY:	Winnebago
RESULT:	Reduction

The subject property consists of a 1-story dwelling of aluminum/vinyl siding exterior construction with 668 square feet of living area. The dwelling was constructed in 1900. Features of the home include a basement and central air conditioning. The property is located in Rockford, Rockford Township, Winnebago 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 November 1, 2019 for a price of \$3,000. The appellant partially completed Section IV – Recent Sale Data of the appeal petition disclosing the sale was not between related parties, the property was advertised for sale with a “Sign, internet and/or auction”. In support of the transaction the appellant submitted a copy of a Real Estate Transfer Declaration which indicates the property was advertised for sale and the seller was a government agency.

The appellant also submitted information on four comparable sales located within 0.89 of a mile from the subject. The comparables are improved with 1-story homes ranging in size from 662 to 797 that were built in 1900 or 1920. Each home has a basement and central air conditioning. The comparables sold from January to December 2020 for prices ranging from \$1,356 to \$16,100 or from \$1.70 to \$22.05 per square foot of living area, including land.

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$870 which would reflect a market value of \$2,610 or \$3.91 per square foot of living area, land included, when applying the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$6,150. The subject's assessment reflects a market value of \$18,452 or \$27.62 per square foot of living area, land included, when using the 2021 three year average median level of assessment for Winnebago County of 33.33% as determined by the Illinois Department of Revenue. In support of its contention of the correct assessment the board of review submitted information on four comparable sales, one of which is located within the subject's neighborhood assessment code. Three comparables have sites ranging from 5,060 to 6,853 square feet of land area. The comparables are improved with 1-story homes of aluminum/vinyl siding or frame exterior construction ranging in size from 683 to 925 square feet of living area. The dwellings were built from 1900 to 1959. Two homes each have a basement and two homes each have a concrete slab foundation. Each home has central air conditioning. Two homes each have a 200 or a 352 square foot garage. The comparables sold from September 2019 to November 2020 for prices ranging from \$17,000 to \$40,000 or from \$24.89 to \$51.28 per square foot of living area, including land.

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The board of review submitted a brief contending that the appellant's comparables are not in the same neighborhood as the subject, two comparables sold at auction, the appellant's comparable #3 was not advertised for sale, and one comparable was a bank REO sale. The board of review also argued the subject was renovated since the appellant's 2019 purchase with permits issued for a new roof, new HVAC, electrical repairs, new water heater, and bathroom remodel, all of which except the electrical were completed by the assessment date. The board of review asserted the appellant's request for a reduction in the subject's assessment to reflect a market value below the 2019 purchase price is not supported by the evidence. Based on this evidence the board of review requested the subject's assessment be sustained.

In written rebuttal, the appellant argued the board of review's comparables #2, #3, and #4 sold in 2019, too remote in time from the assessment date, are located more than 1 mile from the subject, and/or are much newer and/or larger homes than the subject. The appellant also argued the repairs to the subject property are not assessable under Section 10-20 of the Property Tax Code (35 ILCS 200/10-20) because no square footage was added to the improvements.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The board of review presented evidence of repairs to the subject which occurred before the assessment date and which were not refuted by the appellant in written rebuttal. Section 10-20 of the Property Tax Code (35 ILCS 200/10-20) provides as follows:

Sec. 10-20. Repairs and maintenance of residential property. Maintenance and repairs to residential property owned and used exclusively for a residential purpose shall not increase the assessed valuation of the property. For purposes of this Section, work shall be deemed repair and maintenance when it (1) does not increase the square footage of improvements and does not materially alter the existing character and condition of the structure but is limited to work performed to prolong the life of the existing improvements or to keep the existing improvements in a well maintained condition; and (2) employs materials, such as those used for roofing or siding, whose value is not greater than the replacement value of the materials being replaced. Maintenance and repairs, as those terms are used in this Section, to property that enhance the overall exterior and interior appearance and quality of a residence by restoring it from a state of disrepair to a standard state of repair do not "materially alter the existing character and condition" of the residence.

Based on this record, the Board finds the board of review has not demonstrated that the square footage of the improvements was increased, the repairs materially altered the existing improvements, or replacement materials were valued greater than the materials being replaced.

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Thus, the Board finds the repairs to the subject property should not increase the subject's assessment pursuant to Section 10-20 of the Property Tax Code.

The record contains a total of eight comparable sales and evidence of a 2019 sale of the subject property for the Board's consideration. The Board gives less weight to the 2019 sale of the subject property as this sale occurred more remote in time from the assessment date and is less likely to be indicative of market value as of that date. The Board gives less weight to the board of review's comparables, due to substantial differences from the subject in dwelling size, age, location, and/or garage amenity, and/or which sold less proximate in time to the assessment date than other comparables in this record.

The board of review argued the appellant's comparables were not arm's length sales as two comparables sold at auction, the appellant's comparable #3 was not advertised for sale, and one comparable was a bank REO sale. The Board finds the board of review has not demonstrated that the appellant's comparables #1, #2, and #4 were not arm's length sales. "Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so. Bd. of Educ. v. Ill. Prop. Tax Appeal Bd., 2011 IL App (2d) 100068, P36, 961 N.E.2d 794, 801, 356 Ill. Dec. 405, 412 (citing Chrysler Corp. v. State Property Tax Appeal Bd., 69 Ill. App. 3d 207, 211, 387 N.E.2d 351, 355, 25 Ill. Dec. 695, 699 (2d Dist. 1979)). The mere fact that these comparables sold at auction or as a Bank REO sale, without further evidence of the circumstances of these sales, does not demonstrate these sales were not arm's length transactions. Accordingly, in the absence of other evidence, the Board will consider the appellant's comparable #1, #2, and #4 on this record. However, the Board gives less weight to the appellant's comparable #3, where the appellant did not refute the board of review's assertion that this property was not advertised for sale.

The Board finds the best evidence of market value to be the appellant's comparables #1, #2, and #4, which are more similar to the subject in dwelling size, age, location, and features and sold more proximate in time to the assessment date at issue. These comparables sold for prices ranging from \$1,805 to \$16,100 or from \$2.73 to \$22.05 per square foot of living area, including land. The subject's assessment reflects a market value of \$18,452 or \$27.62 per square foot of living area, including land, which is above the range established by the best comparable sales in this record. Based on this record and after considering appropriate adjustments to the best comparables for differences when compared to the subject, the Board finds the subject's assessment is not reflective of market value and a reduction in the subject's assessment is justified.

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APPELLANT:	Jay Patel
DOCKET NUMBER:	18-47219.001-R-1
DATE DECIDED:	May 2023
COUNTY:	Cook
RESULT:	No Change

The subject property consists of a 7,620 square foot parcel of land improved with a 33-year-old, two-story, frame, single-family building containing 2,299 square feet of building area. The property is located in Elk Grove Village, Schaumburg Township, Cook County and is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation and inequity as the bases of the appeal. In support of the market value argument, the appellant submitted copies of the receipt and certification of sale and the judicial sale deed which disclosed the subject was purchased on March 21, 2017 for \$278,500 or \$121.14 per square foot of building area. The petition discloses that the transfer was not between related parties, the property was sold via auction, that the property was not advertised for sale, that the sale was not due to a foreclosure, and that the property was sold using a contract for deed which was entered into on October 3, 2016. The petition discloses that the subject is an owner-occupied residence.

In support of the equity argument, the appellant submitted five comparables. These comparables are described as two-story, frame, single-family dwellings. They range: in age from 35 to 45 years; in size from 2,225 to 2,709 square feet of building area; and in improvement assessment from \$8.68 to \$10.50 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$30,721 with an improvement assessment of \$25,768 or \$11.21 per square foot of building area. The total assessment reflects a market value of \$307,210 or \$133.63 per square foot of building area when using the level of assessment for class 2 property of 10% under the Cook County Real Property Assessment Classification Ordinance.

In support of the current assessment, the board of review submitted data on four comparables. The comparables are described as two-story, frame, single-family dwellings. They range: in age from 32 to 37 years; in size from 2,072 to 2,196 square feet of building area; and in improvement assessment from \$11.22 to \$13.87 per square foot of building area. They sold from December 2016 to September 2017 for prices ranging from \$161.66 to \$174.94 per square foot of building area. The board of review also listed the sale of the subject in March 2017 for \$278,500.

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).

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The Illinois Supreme Court defined fair cash value as what the 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 to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428 (1970). In addition, Section 1-50 of the Property Tax Code defines fair cash value as:

The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50)

The Property Tax Appeal Board finds the subject's sale does not meet at least one of the fundamental requirements to be considered an arm's-length transaction reflective of fair cash value. The Board finds the preponderance of the evidence shows the subject property was not advertised or exposed for sale on the open market.

Illinois Courts have stated fair cash value is synonymous with fair market value and is defined as the price a willing buyer would pay a willing seller for the subject property, there being no collusion and neither party being under any compulsion. Ellsworth Grain Company v Property Tax Appeal Board, 172 Ill.App.3d 552, 526 (4th Dist. 1988). Although the appellant's evidence may suggest the subject's transaction was between a willing, knowledgeable buyer and seller, the Board finds the transaction was not advertised for sale in the open market and is not typical of the due course of business and trade. The appellant's petition discloses that the subject was not advertised for sale, that a contract for deed was entered into in October 2016, and that a judicial sale took place in March 2017. Thus, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price. Therefore, the subject's sale price was given little weight and is not considered indicative of fair market value.

The best evidence of market value is the comparables submitted by the board of review. These comparables sold from December 2016 to September 2017 for prices ranging from \$161.66 to \$174.94 per square foot of building area. In comparison, the subject's assessment reflects a market value of \$121.14 per square foot of building area which is below the range of the best comparables in the record. Therefore, the Board finds the appellant did not prove by a preponderance of the evidence that the subject was overvalued, and a reduction based on market value is not justified.

The taxpayer also contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b).

The Board finds the best evidence of assessment equity to be the appellant's comparable #1 and the board of review's comparables. These comparables had improvement assessments ranging of \$10.50 to \$13.87 per square foot of building area. The remaining comparables were given less weight due to differences in size. In comparison the subject's improvement assessment of \$11.21

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per square foot of building area is within the range of the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's improvements is not justified.

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APPELLANT:	Ponds of Palos Townhouse Association
DOCKET NUMBER:	21-29751.001-R-2 thru 21-29751.018-R-2
DATE DECIDED:	April 2023
COUNTY:	Cook
RESULT:	Dismissed

The Board finds the appellant, Ponds of Palos Townhouse Association, timely filed a Residential Appeal petition postmarked on August 19, 2022 from a Final Decision issued by the Cook County Board of Review dated July 25, 2022 with a final transmittal date for Palos Township for tax year 2021 of August 17, 2022.¹

On November 3, 2022 the Cook County Board of Review was notified of this appeal and given 90 days to file its response. On November 30, 2022 the Cook County Board of Review filed its Motion to Dismiss for lack of standing in the above captioned appeal and the appellant responded. The Board finds that this matter has been fully briefed and that the parties have had ample opportunity to present their respective arguments.

The subject matter of the appeal consists of eighteen parcels improved with nine (9) two-story buildings constructed in 2005, each of which is improved with two (2) townhouse units. The subject property is located in Ponds of Palos Townhouse Association, Palos Heights, Palos Township, Cook County.

This appeal was filed by Ponds of Palos Townhouse Association, the appellant. The appeal challenges the assessment of each parcel (townhouse unit) based on overvaluation. In support of this argument, the appellant submitted a copy of the Cook County Board of Review's final decision for tax year 2021, an Addendum listing each of the assessments for each PIN under appeal along with the appellant's claims for each PIN under appeal, a brief and an appraisal prepared by Andrew G. Hartigan, a Certified General Real Estate Appraiser. Mr. Hartigan's appraisal sets forth an aggregate opinion of value of the subject parcels, utilizing both the sales comparison and income approaches to value, of \$4,600,000 as of January 1, 2020.

The Cook County Board of Review ("BOR") filed its "Board of Review Notes on Appeal" and this Motion to Dismiss. According to the BOR, the appeal involves the assessments of eighteen (18) residential townhomes which are individually owned in fee simple. Moreover, according to the BOR, five of the eighteen townhomes have sold since 2018 and one additional townhome sold in 2015.

The BOR argued that Ponds of Palos Townhouse Association is neither an owner nor a taxpayer for any of these properties and therefore, lacks standing to file this appeal.²

¹ An appeal must be postmarked within 30 days of the final transmittal date. (35 ILCS 200/16-160 (2022)).

² The BOR acknowledges the recently enacted Public Act 102-1000 (codified in 35 ILCS 200/16-160) which will allow an association like this appellant to have standing before the Property Tax Appeal Board. However, by its own terms, this statutory provision did not become effective until January 1, 2023.

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The BOR argues that the appellant does not have standing to bring these appeals on behalf of the taxpayers/owners pursuant to section 16-160 of the Property Tax Code ("Code") (35 ILCS 200/16-160) and section 1910.10(c) of the rules of the Property Tax Appeal Board ("PTAB"). (86 Ill.Admin.Code §1910.10(c)). The BOR argued these two provisions require the appeal to be filed by the taxpayer or owner of the property, and that because the Ponds of Palos Townhouse Association is not the taxpayer or owner it has no standing to bring this appeal.

Based on these arguments the BOR requested dismissal of the appeal.

In response, the appellant asserted it has standing to file the appeal "as the representative of the individual unit owners who are taxpayers of the subject property." Appellant contends that condominium associations have standing to appeal." (Citing: *Hidden Creek Condominium Association v. PTAB*, 414 Ill.App.3d 955 (1st Dist. 2011) and *The Lofts at 1800 Condominium Association v. PTAB*, 2021 IL App (1st) 201697-U). According to the appellant, each of these cases held that a condominium association can have standing to file a property tax appeal with the PTAB. Appellant further argues it has a direct and substantial interest in the subject property as "it represents the interests of the individual unit owners who are taxpayers of the subject property." Additionally, the appellant contends that it is responsible for the management and maintenance of the subject property and "therefore has an interest in ensuring that the assessment of the subject property is fair and accurate."

Finally, the appellant relies on the fact that the General Assembly recently passed Public Act 102-1000, which allows associations like the subject to have standing in PTAB proceedings as of January 1, 2023. In conclusion, based on case law applicable to condominium associations and the recent legislative change to the Property Tax Code, the appellant requests denial of the motion.

Preliminary Matter

Before this Board addresses the merits of the parties' arguments, we must first address the cases cited by the appellant in its brief. The appellant cited to the following cases:

1. "Hidden Creek Condominium Association v. Property Tax Appeal Board, 414 Ill.App. 3d 955 (1st Dist. 2011)." App. Br. Pgs. 2, 3 and 4.
2. "The Lofts at 1800 Condominium Association v. Property Tax Appeal Board, 2021 IL App (1st) 201697-U." App. Br. Pgs. 2 and 3.
3. "1010 Lake Shore Association v. Property Tax Appeal Board. 64 N.E.3d 1238 (Ill. App. Ct 2016)." App. Br. Pg 3.
4. "Hidden Creek Condo. Ass'n v. Lake County Board of Review, 26 N.E.3d 1289 (Ill. App. Ct. 2015)." App. Br. Pg. 3.

After a diligent search, the PTAB is unable to find these cases cited by the appellant. All citations were entered into Lexis with negative results. A search was conducted in Lexis for "Hidden Creek Condo" with the search being limited to only Illinois' jurisdiction, which resulted in one case meeting this criteria - *Groves of Hidden Creek Condominium II Ass'n v. Groves of Hidden Creek Community Ass'n*, 2014 IL App (1st) 132395-U. See Attachment 1. Again, for the *Lofts at 1800* case a search was conducted for the citation with negative results. A Lexis search for "Lofts at 1800" was conducted and only two cases meet this criteria, both of which were cases from the

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Northern District of Illinois. See Attachment 2. An additional search for "1800 Condo" was conducted. The results were three cases from the State of Florida. See Attachment 3. A search for the citation to the *1010 Lake Shore Association case* reveals the citation is actually to *Simek v. Nolan*, 64 N.E.3d 1237 (Ind. Ct. App. 2016). See Attachment 4. A search for the alleged citation to the "*Hidden Creek Condo Ass'n*" case is actually a citation to *State v. Adams*, 2014-Ohio-5854, 26 N.E.3d 1283 (Ct. App.). See Attachment 5.

Conclusion of Law

After reviewing the record, considering the arguments of the parties and for the reasons stated below, the PTAB finds that the Ponds of Palos Townhome Association is not the taxpayer nor the owner of the subject property. Additionally, the Townhome Association is not a condominium association as defined by statute. 765 ILCS 605/1, *et seq.* Therefore, the PTAB does not have jurisdiction to hear this appeal and dismisses this matter.

Limits of PTAB's Jurisdiction

PTAB is a legislatively created administrative body whose authority is derived from the Property Tax Code. 35 ILCS 200/7-5 *et seq.*; *Cook County Bd. of Review v. Property Tax Appeal Bd.*, 339 Ill.App.3d 529, 538 (1st Dist. 2003). As an administrative agency, PTAB has "no inherent or common law powers, and any authority that the agency claims must find its source within the provisions of the statute by which the agency was created..." *Illinois Dep't of Revenue v. Illinois Civil Serv. Comm'n*, 357 Ill. App. 3d 352, 827 N.E.2d 960 (2005).

Although the term "jurisdiction" is not strictly applicable to an administrative body, it is used to designate the authority of the administrative body to act. Thus, in the administrative law context, the term "jurisdiction" has three aspects: (1) personal jurisdiction (i.e., the agency's authority over the parties and intervenors involved in the proceedings); (2) subject-matter jurisdiction (i.e., the agency's power over the general class of cases to which the particular case belongs); and (3) an agency's scope of authority under its statute. The third aspect is considered the inherent power of an agency to make or enter the particular order involved.

Armstead v. Sheahan, 298 Ill. App. 3d 892, 894–95 (1998) (Internal citations omitted).

The question presented by this motion is – Does the PTAB have jurisdiction to hear an appeal from a townhome association?

Owner, Taxpayer or Taxing District

Section 16-160 of the Property Tax Code provides in part that:

[F]or all property in any county other than a county with 3,000,000 or more inhabitants, any **taxpayer** dissatisfied with the decision of a board of review . . . as such decision pertains to the assessment of his or her property for taxation purposes, or any **taxing body** that has an interest in the decision of the board of review . . . on an assessment made by any local assessment officer, may, (i) in counties with

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less than 3,000,000 inhabitants within 30 days after the date of written notice of the decision of the board of review . . . appeal the decision to the Property Tax Appeal Board for review. . . .(Emphasis added.)

35 ILCS 200/16-160. In accordance with this statutory authority, section 1910.10(c) of the rules of the PTAB provides that:

Only a **taxpayer or owner** of property dissatisfied with the decision of a board of review as such decision pertains to the assessment of his property for taxation purposes, or a **taxing body that has a tax revenue interest** in the decision of the board of review on an assessment made by any local assessment officer, may file an appeal with the Board. (Emphasis added.)

86 Ill.Admin.Code 1910.10(c). Section 1910.60(a) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.60(a)) further states in relevant part:

Any taxpayer or owner of property dissatisfied with a decision of the board of review as such decision pertains to the assessment of his or her property may appeal that decision by filing a petition with the Property Tax Appeal Board . . . [Emphasis added]

When determining if the party initiating a case before the PTAB is an owner or a taxpayer, the appellate court has stated:

Title refers only to a legal relationship to the land, while ownership is comparable to control and denotes an interest in the real estate other than that of holding title thereto.

Kankakee County Board of Review v. Property Tax Appeal Board, 316 Ill.App.3d 148. 152 (3rd Dist. 2000) (citing People v. Chicago Title & Trust Co., 75 Ill.2d 479 at 489 (1979)).

The Kankakee court further found:

Especially in tax law, "[t]he key elements of ownership are control and the right to enjoy the benefits of the property. Revenue collection is not concerned with the "refinements of title"; it is concerned with the realities of ownership."

Kankakee at 152.

The Tax Code, Administrative Rules, and case law clearly provide that only a taxpayer, owner or taxing body with a tax revenue interest may initiate an appeal before the PTAB to challenge a decision of the board of review relating to the assessment of the property.

We can easily dispense with the notion that the Ponds of Palos Townhome Association is not a taxing district. Therefore, this provision of the statute resting jurisdiction in the PTAB is not triggered. The Townhome Association concedes by its own argument that it filed this appeal as "the representative of the individual unit owners who are taxpayers of the subject property." App.

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Br. Pg. 3. The PTAB takes this as an admission that the Townhome Associations in not the owner nor the taxpayer. Therefore, PTAB lacks the jurisdiction to hear this appeal since the legislature, at least prior to January 1, 2023, did not give the PTAB that authority.

Condominium Associations

The Appellant seems to be arguing that the Ponds of Palos Townhome Association should be treated as a condominium association and that if the appellant is treated as such, the PTAB would have jurisdiction. We say "seems" because the appellant cites to cases that do not appear to exist. But, *in arguendo*, if the law as stated by the appellant is correct, despite the incorrect citations and party names, this argument fails because the Townhome Association is not a condominium association. The Condominium Property Act requires condominium associations to have the word "condominium" in its name or to have the words "a condominium" following its names. 765 ILCS 605/4(c). Since the Ponds of Palos Townhome Association is not a condominium association, the appellant's uncited argument is without merit.

The fact that the Townhome Association is not subject to the Condominium Community Act is important because the Association does not benefit from 765 ILCS 605/10. Section 605/10 explicitly gives condominium associations authority to represent individual owners in connection with the assessments of their taxes. Whether or not that gives PTAB jurisdiction to hear a condominium association appeal is irrelevant because this Town Association is not governed by this statute.

The PTAB acknowledges that this decision may be read to be in contradiction with its decision in *Stonecreek Townhome Association*, Docket No. 16-36976. We do not need to revisit the wisdom of that decision, nor do we need to overrule it here – nor can we. *Stonecreek* and the instant appeal are distinguishable. Each decision of the PTAB "is necessarily fact specific and based upon the particular record of each case." *Board of Educ. of Ridgeland School Dist. No. 122, Cook County v. Property Tax Appeal Bd.*, 2012 IL App (1st) 110461, ¶ 33. In *Stonecreek*, the appellant presented sound legal arguments based on citable case law and statutes. The Appellant in this matter has not.

Public Act 102-1000

The appellant argues that Public Act 102-1000 "provides further support for its position" that the PTAB has jurisdiction to hear this appeal. We find this argument to be without merit. To the contrary, we find the enactment of Public Act 102-1000 to work against the appellant's argument.

Public Act 102-1000 amended the Property Tax Code, the PTAB's enabling statute, to give the PTAB jurisdiction over an appeal filed by "common interest community association," a "unit owners association" as defined by the Condominium Property Act, or a "master association" as defined by the Condominium Property Act. See 35 ILCS 200/16-160 (LexisNexis, Lexis Advance through P.A. 102-1140, of the 2022 Regular Session of the 102nd Legislature). The change in statute was not effective until January 1, 2023. It is clear, the General Assembly did not expand PTAB's jurisdiction over appeals filed by these types of associations until after January 1, 2023. So, prior to January 1, 2023, the General Assembly had not given the PTAB the jurisdiction to hear this appeal.

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Conclusion

Finally, pursuant to Section 1910.90(i) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.90(i)), the Board may take judicial notice of previous decisions issued by the Board.

Section 1910.90(i) of the rules of the Property tax Appeal Board states:

The Property Tax Appeal Board may take official notice of decisions it has rendered, matters within its specialized knowledge and expertise, and all matters of which the Circuit Courts of this State may take judicial notice.

The Board takes judicial notice of Docket Nos. 08-22568, 09-25824, 10-20257, 11-21566, 12-21271, 13-20284, 14-26811, 15-20745, 17-22830 and 18-20446 involving the same appellant, Ponds of Palos Townhouse Association, and the BOR wherein the parties either entered into a stipulation concerning these same parcels or proceeded with the matter to a written decision being issued by PTAB on the merits. Additionally, for tax years 2019 and 2020, the parcels were appealed under the names of the individual property owners. The Board finds in the prior tax year appeals, the issue of jurisdiction was not raised by the BOR prior to the execution of the stipulation and/or issuance of a decision by the PTAB on the merits.

The facts before the PTAB demonstrate that the owners of the respective PINs did not file a tax year 2021 appeal to the PTAB. Rather a consolidated appeal for 18 individual townhome dwellings was filed for tax year 2021 by the Ponds of Palos Townhouse Association. The record clearly demonstrates that the Townhouse Association is not the taxpayer, owner or a taxing body with a tax revenue interest that has standing to initiate the appeals before the PTAB to challenge the 18 parcels contained within the decision of the Cook County Board of Review as it pertains to the assessment of the subject PINs.

For this 2021 tax year appeal, based on the conclusion that Ponds of Palos Townhouse Association is not a taxpayer, owner or taxing body, the Board finds the appellant does not have standing to file an assessment appeal and the Property Tax Appeal Board **grants** the Motion to Dismiss; this appeal is **dismissed for lack of jurisdiction**.

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APPELLANT:	Garry Sklovsky
DOCKET NUMBER:	21-00981.001-R-1
DATE DECIDED:	September 2023
COUNTY:	Lake
RESULT:	No Change

The subject property consists of a one-story dwelling with 2,363 square feet of living area. The dwelling was constructed in 1994. Features of the home include a concrete slab foundation, central air conditioning, a fireplace and a 200 square foot garage. The property is located in Lincolnshire, Vernon Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information on four comparable sales that have the same assessment neighborhood code as the subject and are located within .07 of mile from the subject property. The comparables are improved with one-story dwellings, each containing 1,892 square feet of living area. The dwellings were built in either 1993 or 1994. Each comparable has a concrete slab foundation, central air conditioning, a fireplace and a garage with either 200 or 400 square feet of building area. The comparables sold in August or October 2020 for prices ranging from \$235,000 to \$280,000 or from \$124.21 to \$147.99 per square foot of living area, including land. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$105,445. The subject's assessment reflects a market value of \$317,128 or \$134.21 per square foot of living area, land included, when using the 2021 three-year average median level of assessment for Lake County of 33.25% as determined by the Illinois Department of Revenue. The subject has an improvement assessment of \$66,232 or \$28.03 per square foot of living area.

In support of its contention of the correct assessment, the board of review submitted information on five comparable sales that have the same assessment neighborhood code as the subject and are located within .07 of a mile from the subject property. The board of review's comparable #5 is the same property as the appellant's comparable #4. The comparables are improved with one-story dwellings ranging in size from 1,892 to 2,389 square feet of living area. The dwellings were built in either 1993 or 1995. Each comparable has a concrete slab foundation, central air conditioning, a fireplace and a garage with either 200 or 400 square feet of building area. The comparables sold from April 2020 to December 2021 for prices ranging from \$280,000 to \$375,000 or from \$147.99 to \$198.20 per square foot of living area, including land. The board of review asserted that comparables #2 and #3 are identical models with similar features. The comparables have total assessments ranging from \$93,987 to \$110,020 and improvement assessments ranging from \$54,774 to \$66,916 or from \$24.68 to \$28.95 per square foot of living area.

Based on this evidence, the board of review recommends an increase in the subject's total assessment to \$116,655, which would reflect a market value of \$350,000. The requested increase

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would result in an improvement assessment for the subject of \$77,442 or \$32.77 per square foot of living area.

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.

The record contains eight suggested comparable sales for the Board's consideration, as one sale was common to the parties. The Board has given less weight to the appellant's comparables, as well as board of review comparables #1 and #5, which includes the common comparable, due to their smaller dwelling sizes when compared to the subject.

The Board finds the best evidence of market value to be board of review comparables #2, #3 and #4, which are similar to the subject in location, dwelling size, design, age and some features, two of which are identical in dwelling size. The comparables sold from April 2020 to October 2021 for prices ranging from \$355,000 to \$375,000 or from \$148.60 to \$158.70 per square foot of living area, including land. The subject's assessment reflects a market value of \$317,128 or \$134.21 per square foot of living area, including land, which falls below the range established by the best comparable sales in the record. Based on this evidence, the Board finds the subject is under assessed in relation to market value.

The Board denies the board of review's request to increase the subject's assessment as the evidence disclosed there exists a practical uniformity of assessments between the best comparables presented by the board of review and the subject property. (See Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960)). These most similar comparable sales have improvement assessments ranging from \$58,313 to \$66,916 or from \$24.68 to \$28.32 per square foot of living area. The subject's improvement assessment is \$66,232 or \$28.03 per square foot of living area falls within the range established by the best comparables in the record. Increasing the subject's assessment as requested by the board of review would result in an inequitable assessment of the subject property in contrast with the assessments of the best comparables provided by the board of review.

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APPELLANT:	William J. Whelehan
DOCKET NUMBER:	19-34178.001-R-1
DATE DECIDED:	July 2023
COUNTY:	Cook
RESULT:	No Change

The subject property consists of a 3,060 square foot parcel of land improved with a 112-year-old, three-story, masonry, multi-family dwelling containing 3,247 square feet of building area. The property is located in Chicago, West Township, Cook County and is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends inequity as the basis of the appeal. In support of the equity argument, the appellant submitted four comparables. The comparables are described as three-story, masonry, multi-family dwellings. They range in size from 5,022 to 7,806 square feet of building area and in improvement assessment from \$9.88 to \$11.50 per square foot of building area. The appellant's evidence lists conflicting data on the ages of these properties.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of \$52,449 with an improvement assessment of \$44,646 or \$13.75 per square foot of building area.

In support of the current assessment, the board of review submitted four comparables. These properties are described as three-story, masonry, multi-family dwellings. They range: in age from 93 to 105; in size from 3,084 to 3,579 square feet of building area; and in improvement assessment from \$13.95 to \$16.98 per square foot of building area.

In rebuttal, the appellant submitted four additional comparables. The Official Rules of the Property Tax Appeal Board prohibit the submission of new evidence in rebuttal and, therefore, these comparables cannot be considered by the Board. 86 Ill.Admin.Code 1910.66.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b).

The Board finds the best evidence of assessment equity to be the board of review's comparables. These comparables had improvement assessments ranging from \$13.95 to \$16.98 per square foot of building area. The remaining comparables were given less weight due to differences in size. In comparison the subject's improvement assessment of \$13.75 per square foot of building area is below the range of the best comparables in this record. Based on this record the Board finds the

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appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's improvements is not justified.

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APPELLANT:	Thomas Wood
DOCKET NUMBER:	21-02194.001-R-2
DATE DECIDED:	October 2023
COUNTY:	Lake
RESULT:	Dismissed

The subject property consists of a single family residential dwelling located in Lake Bluff, Shields Township, Lake County. The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on five comparable sales with varying degrees of similarity to the subject. Based on this evidence, the appellant requested a reduction in the subject's total assessed value of \$148,600.

The parties appeared before the Property Tax Appeal Board on September 13, 2023 for a scheduled hearing at the Lake County Board of Review Office in Waukegan pursuant to prior written notice dated July 7, 2023. Appearing on behalf of the appellant was attorney Andrew J. Rukavina. Appearing on behalf of the intervenor, was Scott E. Nemanich, and appearing on behalf of the Lake County Board of Review was Marty Kinczel, Chief Real Estate Appraiser for the Lake County Board of Review. The appellant's counsel advised the ALJ that he did not procure the services of a court reporter to record and transcribe the proceedings as required by Section 1910.98(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.98(a)).¹

As part of the original Hearing Notice issued on July 7, 2023, the Property Tax Appeal Board notified the appellant that, pursuant to section 1910.89 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.98), since the appellant is seeking a change in assessment of \$100,000 or more in assessed valuation, the appellant must provide a court reporter at its own expense.

The presiding ALJ informed Mr. Rukavina that pursuant to section 1910.69(d) of the rules of the Property Tax Appeal Board, failure to provide a court reporter is sufficient grounds for dismissal of the appeal. (86 Ill.Admin.Code §1910.69(d)) Mr. Rukavina stated he was unaware of this PTAB rule and suggested he could "adjust" the appellant's assessment request in order avoid the need of a court reporter. In response, the ALJ cited County of Coles v. Property Tax Appeal Board, 275 Ill.App.3d 945, 657 N.E.2d 673 (4th Dist. 1995), existing case law, which precludes such a change to an appeal.

During the proceeding, Mr. Rukavina requested latitude be granted by the Board due to the prejudicial impact on the appellant for counsel's admitted lack of knowledge regarding the requirement of a court reporter. The appellant's attorney requested a 15 minute recess to "search

¹ Section 16-190(a) of the Property Tax Code provides in part:

The Property Tax Appeal Board shall keep a record of its proceedings and orders and the record shall be a public record. In all cases where the contesting party is seeking a change of \$100,000 or more in assessed valuation, the contesting party must provide a court reporter at his or her own expense. The original certified transcript of such hearing shall be forwarded to the Springfield office of the Property Tax Appeal Board and shall become part of the Board's official record of the proceeding on appeal. . . . 35 ILCS 200/16-190(a).

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the building for a court reporter.” Mr. Nemanich asserted the intervenor was present and prepared to proceed to hearing and argued there is no way to know if a court reporter would even be found. The ALJ ruled the facts of the proceeding would be communicated to the Board and that no hearing on the merits would be held absent a court reporter.

Conclusion of Law

Section 1910.98(a) of the rules of the Property Tax Appeal Board provides in part that:

In all cases where the contesting party is seeking a change of \$100,000 or more in assessed valuation, the contesting party must provide a court reporter at his or her own expense... 86 Ill.Admin.Code §1910.98(a).

Section 1910.69(d) of the rules of the Property Tax Appeal Board provides in part that:

Failure of the contesting party to furnish a court reporter as required by Section 1910.98(a) of this Part shall be sufficient cause to dismiss the appeal... 86 Ill.Admin.Code §1910.69(d).

Section 1910.30(j) of the rules of the Property Tax Appeal Board provides in part:

The contesting party may only amend the assessment claimed to be correct by filing an appeal petition denoted as “Amended” setting forth the assessed valuation of the land, the assessed value of the improvements, and the total assessed valuation that the contesting party considers correct upon the completion of the filing of the documentary evidence in accordance with extensions granted pursuant to subsection (g). **No Amendment to the contesting party’s assessment request will be accepted after the expiration of the extension of time to submit evidence that has been granted pursuant to subsection (g).** [Emphasis added]

Moreover, the appellate court has provided clarity on this issue. In County of Coles v. Property Tax Appeal Board, the appellate court held: The amount of change sought is fixed at the instant a petition is filed with the Property Tax Appeal Board and is the difference between the final decision of the board of review and the proposed assessment request set forth by the contesting party on the petition. County of Coles v. Property Tax Appeal Board, 275 Ill.App.3d 945, 657 N.E.2d 673 (4th Dist. 1995).

Finally, Section 1910.69(a) of the rules of the Property Tax Appeal Board provides as follows:

Failure of any party to comply fully with all rules and/or specific requests of the Property Tax Appeal Board as provided in Sections 1910.30, 1910.40, 1910.60, 1910.65, 1910.67, 1910.68 and 1910.73 of this Part shall result in the default of that party. 86 Ill.Admin.Code §1910.69(a).

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The Board finds the appellant requested a change in the subject's total assessment in excess of \$100,000. The amount of change sought is fixed at the instant a petition is filed with the Property Tax Appeal Board and is the difference between the final decision(s) of the board of review and the proposed assessment(s) request set forth by the contesting party on the petition. County of Coles v. Property Tax Appeal Board, 275 Ill.App.3d 945, 657 N.E.2d 673 (4th Dist. 1995).

The original notice of the scheduled hearing was made in accordance with section 1910.67 of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.67). The hearing notice letter dated July 7, 2023 stated the time, location and, pursuant to section 1910.98 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.98), informed the appellant of the requirement to engage a court reporter for the hearing. The Board finds the appellant failed to procure the services of a court reporter as required by section 1910.98(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.98(a)) The Board further finds that pursuant to Section 1910.69(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.69(d)), failure to furnish a court reporter as required in section 1910.98(a) is sufficient cause for dismissal of the appeal. Additionally, the Property Tax Appeal Board finds the appellant's counsel provided no good cause for failure to have a court reporter present at the scheduled hearing. For these reasons, docket number 21-02194.001-R-2 is hereby dismissed.

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PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2023 FARM DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
Printed by Authority of the State of Illinois

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Stewart, Shane	20-06444.001-F-1	Reduction	F-16 to F-19
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2023 SYNOPSIS – FARM CHAPTER

2023 SYNOPSIS – FARM CHAPTER

APPELLANT:	John & Carol Hanna
DOCKET NUMBER:	20-09271.001-F-1
DATE DECIDED:	September 2023
COUNTY:	Effingham
RESULT:	Reduction

The subject property consists of a 20-acre parcel, a portion of which is used for farming and improved with farm building(s) along with a 1.5-acre homesite, which have not been contested in this appeal. The sole issue on appeal concerns the assessment as real property of a manufactured home built in 1989 situated on the parcel. The property is located in Mason, Mason Township, Effingham County.

The appellants contend the mobile home located on the subject parcel, situated outside of a mobile home park, is their residence. Upon request of the appellants, the Board takes notice of the stipulated decision issued by the Property Tax Appeal Board in Docket No. 05-02402.001-F-1 which depicts a zero assessment on the residence as part of this parcel. Appellants report no changes to the subject parcel have occurred to the property, condition of the home, or statutes.

Based on the foregoing contention of law, the appellants requested the subject's improvement assessment be removed and reduced to \$0 with no changes in the farmland, homesite and/or outbuilding assessments.

The board of review did not submit its "Board of Review Notes on Appeal" nor any evidence in support of its assessed valuation of the subject property and was found to be in default by a letter issued on May 4, 2023.

Conclusion of Law

The taxpayers set forth a contention of law asserting that the mobile home on the subject property has been improperly classified and assessed as real estate for tax year 2020. The board of review has been defaulted in this proceeding and thus, did not contest this assertion. On this record, the Board finds the appellants established that a reduction in the subject's assessment is warranted in light of applicable provisions of the Property Tax Code.

The appellants contend that the mobile home located on the subject site should not be assessed and taxed as real estate. Section 1-130 of the Property Tax Code, which defines real property, was amended by Public Act 96-1477, with an effective date of January 1, 2011, to provide in part as follow:

§1-130. Property, real property; real estate; land; tract; lot:

(a) 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

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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.

(b) Notwithstanding any other provision of law, mobile homes and manufactured homes that (i) are located outside of mobile home parks and (ii) are taxed under the Mobile Home Local Services Tax Act on the effective date of this amendatory Act of the 96th General Assembly shall continue to be taxed under the Mobile Home Local Services Tax Act and shall not be classified, assessed, and taxed as real property until the home is sold or transferred or until the home is relocated to a different parcel of land outside of a mobile home park. If a mobile home described in this subsection (b) is sold, transferred, or relocated to a different parcel of land outside of a mobile home park, then the home shall be classified, assessed, and taxed as real property. (Emphasis Added). Mobile homes and manufactured homes that are classified, assessed, and taxed as real property on the effective date of this amendatory Act of the 96th General Assembly shall continue to be classified, assessed, and taxed as real property. If a mobile or manufactured home that is located outside of a mobile home park is relocated to a mobile home park, it must be considered chattel and must be taxed according to the Mobile Home Local Services Tax Act. The owner of a mobile home or manufactured home that is located outside of a mobile home park may file a request with the county that the home be classified, assessed, and taxed as real property. . .

35 ILCS 200/1-130(b).¹

This provision of the Property Tax Code was enacted by P.A. 96-1477, § 805, effective January 1, 2011. Thus, the subject mobile home located on a permanent foundation is "frozen" as it was classified prior to January 1, 2011 to be taxed only under the Privilege Tax until such time as it may be "sold, transferred, or relocated to a different parcel of land outside of a mobile home park."

The record indicates that the mobile home at issue is not located in a mobile home park. Based on this record and the foregoing statutory provision, the Board finds a reduction in the subject's assessment is justified as the subject mobile home is not assessable as real property under the Property Tax Code.

¹ P.A. 98-749 amended subsections (b) and (c) of section 1-130 of the Property Tax Code effective July 16, 2014, which is not germane to the present appeal.

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APPELLANT:	Crystal Kern
DOCKET NUMBER:	20-06810.001-F-1
DATE DECIDED:	May 2023
COUNTY:	Logan
RESULT:	Reduction

The subject property consists of an improved farmland parcel containing approximately 16-acres of land area.¹ The subject property is improved with a 5,400 square foot pole building built in 2019 on a concrete slab foundation which contains 1,800 square feet finished as residential living area and the remaining 3,600 square feet consists of pole building with concrete floor. The living area portion of the building is 1.5 stories and has central air conditioning. The property is improved with an additional outbuilding that is used as a two-car garage and a farm building. The property is located in Mt. Pulaski, Mt. Pulaski Township, Logan County.

The appellant contends assessment inequity with respect to the improvement as the basis of the appeal. The subject's homesite and farmland assessments were not challenged. In support of this argument the appellant submitted information on four equity comparables located from .99 to 17.9 miles from the subject property.² Comparable #1 is described as a pole building with steel siding built in 2010 that consists of 1,536 square of living area and 3,456 square feet of steel hangar. Comparable #2 is described as a one-story dwelling built in 1910 on a crawl space foundation that contains 795 square feet of living area. Comparable #3 is described as a one-story dwelling of frame construction built in 2001. The dwelling has 2,160 square feet of living area, a walk-out basement and an 864 square foot attached garage. Comparable #4 is described as a two-story dwelling of frame construction built in 1900. The dwelling has 1,404 square feet of living area, a basement and a 448 square foot garage. The comparables have improvement assessments ranging from \$10,700 to \$53,660 or from \$13.46 to \$24.48 per square foot of living area. Based on this evidence, the appellant requested the subject's improvement assessment be reduced to \$32,100 or \$17.83 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$86,880. The subject property has an improvement assessment of \$77,290 or \$42.94 per square foot of living area when using 1,800 square feet of residential living area. The board of review disclosed the outbuildings/farm buildings have an improvement assessment of \$500.

In response to the appeal, the board of review asserted appellant's comparable #2 was incorrectly assessed due to the assessor considering an older single-family home being the primary residence on the property, when in fact, the primary residence was situated in a metal pole building which had been recently added. The board of review provided a property record card with assessment

¹ The Board finds the best evidence of the subject's description is located in the parcel details printout submitted by the appellant which contained a schematic diagram, measurement and calculations of the pole building.

² In reviewing the records, the Board finds the appellant submitted 2019 assessment information for comparables #5 through #9 for a 2020 appeal for assessment equity. Therefore, the Board will not further consider these comparables in the analysis.

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information for the 2021 tax year. The board of review also noted the appellant purchased the 16-acre subject site in May 2017 for \$170,000 and had an existing two-car garage at the time of sale.

In support of its contention of the correct assessment the board of review submitted sales and assessment information on two properties located in Sangamon and Cass Counties. Based on this evidence, the board of review requested that the subject's assessment be sustained.

Conclusion of Law

The appellant contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds a reduction in the subject's assessment is warranted based upon the record evidence.

The record contains 6 assessment comparables for the Board's consideration. The Board has given less weight to the appellant's comparables #1 and #4 which are significantly older homes when compared to the subject. The Board also gives no weight to the assessment equity data for the two board of review comparables which are located in different counties than the subject property. In Cherry Bowl v. Property Tax Appeal Board, 100 Ill.App.3d 326, 331 (2nd Dist. 1981), the appellate court held that evidence of assessment practices of assessors in other counties is inadmissible in proceedings before the Property Tax Appeal Board. The court observed that the interpretation of relevant provisions of the statutes governing the assessment of real property by assessing officials in other counties was irrelevant on the issue of whether the assessment officials within the particular county where the property is located correctly assessed the property. Lastly, the sales data for these properties does not address the appellant's equity argument.

The Board finds the best evidence of assessment equity to be the appellant's comparables #1 and #3. These two comparables are 8 and 17 years older than the subject and have living area that brackets the subject's living area. However, comparable #2 lacks pole building area when compared to the subject which has 3,600 square feet of pole building area. Most weight was given to appellant's comparable #1 which is most similar to the subject property as it has 3,456 square feet of pole building area. The comparables have improvement assessments of \$53,660 and \$52,880 or \$34.93 and \$24.48 per square foot of living area per square foot of living area, respectively. The subject improvement, excluding the farm buildings, has an improvement assessment of \$77,290 or \$42.94 per square foot of living area, which falls above the improvement assessments of the two most similar comparables in the record. After considering any necessary adjustments to the comparables for differences when compared to the subject, the Board finds the evidence demonstrates the subject improvement assessment, excluding the farm buildings, is excessive. Based on this record the Board finds a reduction in the subject's assessment is warranted.

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APPELLANT:	Paola Petragallo
DOCKET NUMBER:	20-06673.001-F-1
DATE DECIDED:	February 2023
COUNTY:	DeKalb
RESULT:	No Change

The subject property consists of a 1-story dwelling of brick exterior construction with 2,821 square feet of living area.¹ The dwelling was constructed in 1978. Features of the home include a basement, central air conditioning, a fireplace, a 625 square foot garage, and a 1,296 square foot pole building. The property has a 119,790 square foot, or 2.75 acre, site and is located in Kingston, Kingston Township, DeKalb County.

The appellant contends assessment inequity as the basis of the appeal concerning the homesite and lack of farmland and outbuilding assessments;² the appellant did not dispute the subject's improvement (or residence) assessment. In support of this argument, the appellant submitted information on three equity comparables located either on the same street as the subject and/or within Kingston Township. The comparables have homesites ranging in size from 17,424 to 34,848 square feet, or from 0.40 to 0.80 of an acre, of land area and have homesite assessments ranging from \$4,574 to \$9,149 or of \$0.26 per square foot of land area.

The appellant submitted 2020 tax year assessment information sheets for the comparables. Comparable #1 has 2.20 acres of cropland and 0.76 of an acre of other farmland with a farmland assessment of \$745 and an outbuildings assessment of \$10,236. Comparable #2 has 2.17 acres of cropland and 0.54 of an acre of other farmland with a farmland assessment of \$1,189 and an outbuildings assessment of \$15,556. Comparable #3 has 2.90 acres of cropland, 0.36 of an acre of permanent pasture, and 0.10 of an acre of other farmland with a farmland assessment of \$773 and an outbuildings assessment of \$4,026.

The appellant also submitted 2020 tax year assessment information for the subject, which describes a homesite of 31,363.2 square feet, or 0.72 of an acre, of land area; 1.99 acres of permanent pasture; and 0.04 of an acre of other farmland. The assessment information also describes a prior year farmland assessment of \$460 and a prior year outbuildings assessment of \$4,282. As part of the appeal, the appellant wrote “looking to restore farmland and farm building to my property type.”³ The appellant submitted an aerial photograph and survey of the subject property and a photograph of the subject home.

Based on this evidence, the appellant requested a farmland assessment of \$482, a homesite assessment of \$4,574, and an outbuildings assessment of \$4,282. The appellant did not request any change to the subject's improvement assessment.

¹ Additional details regarding the subject property not reported by the appellant are found in the subject's property record card presented by the board of review.

² The assessing officials have included subject's pole building in the improvement assessment of \$99,660.

³ In order to be granted a preferential farmland assessment, it must be established that farming activities occurred on the property for the preceding two years. (35 ILCS 200/10-110).

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The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$116,654. The subject property has a land assessment of \$16,994 or \$0.14 per square foot of land area, based on the subject's total site size of 119,790 square feet of land.

The board of review submitted a brief contending that the appellant has not presented any evidence of farm use on the subject property. The board of review asserted its comparables are located close in proximity to the subject and in the same residential rural neighborhood as the subject, are similar in site size, and each have a dwelling and a barn or shed like the subject. The board of review argued the appellant's comparables have larger sites than the subject and show visible signs of farming activities unlike the subject. In support of this argument, the board of review presented aerial photographs of the subject, the board of review's comparables, and the appellant's comparables. The board of review noted the photographs of the appellant's comparables depict farming activities, such as row crops, active barns and grain bins, and/or horse boarding facilities, whereas photographs of the subject do not depict any such farming activities.

The board of review also submitted pages 5 and 6 from the Illinois Department of Revenue's Publication-122 Instructions for Farmland Assessments. The board of review highlighted the definition of a farm under 35 ILCS 200/1-60, which does not include land primarily used for residential purposes even though there may be farming activities incidental to its residential primary use.

In support of its contention of the correct assessment given the appellant's assessment inequity claim, the board of review submitted information on three equity comparables, together with a map depicting the locations of these comparables in relation to the subject. The comparables are located on the same block as the subject and have sites of 87,555.6 or 102,366 square feet, or 2.01 or 2.35 acres, of land area. The comparables are each improved with a 1-story or a split-level dwelling and a garage ranging in size from 720 to 870 square feet of building area. Comparable #1 has a 480 square foot shed and comparables #2 and #3 each have a pole building with 1,120 or 1,440 square feet of building area. The comparables have land assessments of \$14,642 or \$15,723 or \$0.15 or \$0.17 per square foot of land area.

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

In written rebuttal, the appellant explained that the appellant purchased the subject property in 2018. The appellant asserted the subject had farmland and outbuilding assessments for the 2018 and 2019 tax years, which were removed for the 2020 tax year. The appellant argued that despite a new township law prohibiting properties under five acres to have farmland or outbuildings assessments, the appellant's comparables all have farmland and outbuildings assessments. The appellant further contended that 20 farm animals are housed in the subject property's farm building and on approximately 2.5 acres of its land.⁴

⁴ The Board notes this information regarding the housing of farm animals is new information that was not previously presented by the appellant. Inasmuch as the appellant has the burden of establishing farming activity on the subject property for the preceding two years in order to obtain a preferential farmland assessment, the Board finds this information is not properly presented in rebuttal. (35 ILCS 200/10-110).

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Conclusion of Law

The appellant contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

As an initial matter, the Board finds the subject property is not entitled to a farmland classification for the 2020 tax year. Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines farmland as:

Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The ongoing removal of oil, gas, coal or any other mineral from property used for farming shall not cause that property to not be considered as used solely for farming.

Section 10-110 of the Property Tax Code (35 ILCS 200/10-110) provides for the preferential assessment of farmland:

Farmland. The equalized assessed value of a farm, as defined in Section 1-60 and if used as a farm for the 2 preceding years, except tracts subject to assessment under Section 10-145, shall be determined as described in Sections 10-115 through 10-140.

In order to receive a preferential farmland assessment, a property must meet the statutory definition of a "farm" as defined in Section 1-60 of the Property Tax Code and must have been farmed at least two years preceding the date of assessment as required by Section 10-110 of the Property Tax Code.

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The Board finds the appellant has not established that the subject property is farmed within the definition set forth in Section 1-60 of the Property Tax Code. The only evidence of farming activity on the subject property is the appellant's statement that 20 farm animals are housed at the subject property, which was improperly presented in rebuttal. The appellant did not identify the farm animals being housed, did not describe the farming activity and the length of time of any such activity, or explain how this activity constitutes the primary use of the subject property. Although the appellant submitted a photograph of the subject home, the appellant did not present any photographs of said farm animals or describe the portion of the subject property that is fenced. Therefore, the Board finds that there is no evidence that the subject property should be classified and assessed as a farm.

The Board notes the appellant's argument that the subject property's farmland and outbuilding assessments were removed due to a new township law has no bearing on the subject's assessment. Under the Property Tax Code, there is no statutory requirement that a property must have at least five acres to qualify as a farm for assessment purposes. Any zoning or other ordinances that prohibit or regulate farming activities in a given location are not relevant to the application of the Property Tax Code.

With regard to the appellant's land assessment inequity argument, the record contains a total of six comparables for the Board's consideration. These comparables have varying degrees of similarity to the subject in site size and location and have land or homesite assessments ranging from \$4,574 to \$15,723 or from \$0.15 to \$0.26 per square foot of land area. The subject's land assessment of \$16,994 or \$0.14 per square foot of living area falls above the range established by the best comparables in terms of total land assessment and below the range on a per square foot basis, which is logical given the subject has a larger site than the comparables. The Board notes the principle of the economies of scale which generally provides that if all other things are equal, as the size of a property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases.

Based on this record and after considering appropriate adjustments to the comparables for differences from the subject, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land was inequitably assessed and a reduction in the subject's land assessment is not justified. Furthermore, based on this record, the appellant failed to establish that any portion of the subject property was entitled to a farmland assessment based on farming activity in the two years preceding the 2020 tax year and that the subject's pole building was entitled to a farm outbuilding building assessment based on its use in support of a farming operation.

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APPELLANT:	<u>James & Donna Reifschneider</u>
DOCKET NUMBER:	<u>20-06908.001-F-1 thru 20-06908.002-F-1</u>
DATE DECIDED:	<u>May 2023</u>
COUNTY:	<u>St. Clair</u>
RESULT:	<u>Reduction</u>

The parties appeared before the Property Tax Appeal Board on April 11, 2023 for a hearing at the St. Clair County Building in Belleville pursuant to prior written notice dated February 2, 2023. Appearing were the appellants, James & Donna Reifschneider, and appearing on behalf of the St. Clair County Board of Review was Andrea Johnson, Chief Deputy County Assessor of St. Clair County, along with the board of review's witness, Daniel Baudendistel, Agricultural Assessment Coordinator.

The subject property consists of two vacant parcels with a combined 0.36 of an acre of land area which are located in Belleville, St. Clair Township, St. Clair County. A portion of the subject property is located within a creek and the remaining portion is located along the creek.¹ The subject parcels have Wakeland Silt Loam soil, soil type of 3333A, with a PI of 114.²

The appellants contend the subject property should be classified as farmland. In support of this contention, the appellants submitted a brief asserting the subject property is adjacent to the appellants' 207 acre farm and constitutes a part of their farm. The appellants argued that the subject property should be classified as non-contributory wasteland as the subject property is located in and along a creek, or in the alternative, that the subject property should be classified as idle land because it cannot be farmed due to its location in and along the creek. The appellants contended that the two-year farm use requirement is not applicable because the subject parcels are being added to an existing farm. The appellants presented pages 1 through 8 from the Illinois Department of Revenue's Publication 122, Instructions for Farmland Assessments (January 2021) noting the definitions of and assessment guidelines for wasteland, idle land, and creeks, and the two year eligibility requirement.

The appellants submitted photographs and aerial maps of the subject property, which depict the subject property and other land purchased by the appellants in March 2019, crops on the appellants' adjacent farm tract, and a creek that flows along the south side of the subject property and along the north and east of the appellants' adjacent farm tract. At hearing, Mr. Reifschneider testified that the subject property does not provide direct drainage or run-off for the appellants' 207 acre farm tract, but admitted that the creek is part of a drainage corridor that serves the farm. The appellants acknowledged the subject property cannot be farmed due to its terrain, creek location, and site size, rather than due to a management decision not to farm.

¹ The appellants submitted aerial maps of the subject property depicting the parcels extend into a creek and run alongside a creek, which the board of review agreed at hearing was accurate.

² The appellants submitted county soil data for the subject property, which the board of review agreed at hearing was accurate.

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The appellants also submitted a Real Estate Transfer Declaration (RETD) for their purchase of the subject property, together with other land, in March 2019. At hearing, Mr. Reifschneider presented Hearing Exhibit 1,³ which depicts the land purchased by the appellants in March 2019, including the appellants' 207 acre farm and the subject property. Mr. Reifschneider reiterated that the subject property is adjacent to the appellants' 207 acre farm and is part of that farm. He stated the appellants' 207 acre farm is classified as farm for assessment purposes. He further testified that the use of the land purchased by the appellants in March 2019, which includes the subject property, has not changed since their purchase.

Mr. Reifschneider further testified that the subject property had previously been classified as a farm. He explained the subject property was divided from a parent parcel when the City of Belleville annexed all of the parent parcel except for the subject property. He stated that the parent parcel, which included the subject property, had a farm classification before the annexation, but after the annexation, the annexed portion of the parent parcel continued to have a farm classification, whereas the subject property no longer had a farm classification. In written rebuttal, the appellants submitted assessment sheets for the subject parcels indicating they were divided from the same parent parcel in 2005 with the change effective in 2006.

Based on this evidence, the appellants requested a farm classification for the subject property.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for Parcel Number 08-34.0-200-033 of \$31. The board of review acknowledged at hearing that the board of review decisions presented by the appellants accurately state the subject's assessments. The board of review decision for Parcel Number 08-34.0-200-034 describes a total equalized assessment of \$221.

In support of its contention of the correct assessment the board of review submitted a letter from Daniel Baudendistel, Agricultural Assessment Coordinator, contending that the subject parcels are vacant rural land and are not used for farm or conservation purposes. Baudendistel acknowledged that the subject property cannot be improved due to its location and terrain and that the subject's assessments have been accordingly reduced since 2018. He argued that the subject property did not have a farm classification prior to the appellants' purchase and that the appellants would need to use the subject property for farm use for a period of two years before a farm classification could be granted. He asserted the subject property is not a part of the appellants' farm which is located in a different township and separated from the farm by a creek. He further argued the subject property is not idle farmland as it has not been previously farmed.

At hearing, Baudendistel reiterated the subject property has not been previously classified as a farm⁴ and the appellants are not farming it. He asserted the subject's assessments have been reduced to reflect the poor terrain of the subject property. Upon questioning by Mr. Reifschneider

³ The Board notes that the map marked as Hearing Exhibit 1 was submitted with the appeal petition marked with notes identifying the subject property and the appellants' 207 acre farm. Hearing Exhibit 1 is a blank copy of this map without the appellants' notations.

⁴ While the subject parcel identification numbers may not have previously had a farm classification, the Board finds the evidence shows the subject property's parent parcel had a farm classification prior to its division for annexation purposes. Thus, although the current PINs for the subject have not had a farm classification, the Board finds the subject land has previously had a farm classification.

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about assessment reductions, Baudendistel responded that one parcel's assessment was reduced from \$127 in 2018 to \$33 in 2019 and the other parcel's assessment was reduced from \$912 in 2018 to \$234 in 2019. Baudendistel explained the subject property is assessed based on its fair market value, with adjustments for the subject's poor terrain.

Upon questioning by the ALJ regarding whether the subject property was part of the appellants' 207 acre farm, Baudendistel reiterated that the subject property is separated from the appellants' farm by a creek. He further stated that the subject property cannot be combined with the appellants' farm because the subject parcels were separated by the annexation and are in a different township. Baudendistel acknowledged that the subject property had been part of a farm before annexation and that the appellants' 207 acre tract is a farm. He asserted that ownership by a farmer is not sufficient for a farm classification and that the appellants must show a farm use for two years to be granted a farm classification.

Based on this evidence, the board of review requested the subject's total combined equalized assessment be confirmed.

Conclusion of Law

The appellants' argument is based on a contention of law regarding the interpretation and application of section 1-60 of the Property Tax Code (35 ILCS 200/1-60). The standard of proof on a contention of law is a preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds that in order to receive a preferential farmland assessment, the subject property must first meet the statutory definition of a "farm" as defined in section 1-60 the Property Tax Code and must be used as a farm for the preceding two years (35 ILCS 10-110). Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" as:

Sec. 1-60. Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The ongoing removal of oil, gas, coal or any other mineral from property used for

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farming shall not cause that property to not be considered as used solely for farming.

In order to qualify for a farmland assessment, the land must also have an agricultural use for at least two years preceding the date of assessment. (35 ILCS 200/10-110).

Section 10-115 of the Property Tax Code provides that the Illinois Department of Revenue shall issue guidelines and recommendations for the valuation of farmland to achieve equitable assessment within and between counties (35 ILCS 200/10-115). Section 10-125 of the Property Tax Code (35 ILCS 200/10-125), as noted in Publication 122, identifies cropland, permanent pasture, other farmland, and wasteland as the four types of farmland and prescribes the method for assessing each type of farmland. Section 10-125 further states that U.S. Census Bureau definitions are to be used to define cropland, permanent pasture, other farmland and wasteland.

According to Publication 122, the following definition of wasteland complies with this requirement:

Wasteland is that portion of a qualified farm tract that is not put into cropland, permanent pasture, or other farmland as the result of soil limitations and not as the result of a management decision.

Section 10-125(d) of the Property Tax Code provides that “[w]asteland shall be assessed on its contributory value to the farmland parcel.” Publication 122 explains: “In many instances, wasteland contributes to the productivity of other types of farmland. Some land may be more productive because wasteland provides a path for water to run off or a place for water to collect. Wasteland that has a contributory value should be assessed at one-sixth of the EAV per acre of cropland of the lowest PI certified by the Department. When wasteland has no contributory value, a zero assessment is recommended.”

Publication 122 defines idle land as “land that is not put into a qualified farm use as the result of a management decision, including neglect. Factors to be considered in determining whether land is “idle land” are: (1) whether the land is part of a farm, (2) whether the land could be cropped without additional improvements, and (3) the size of the land compared to the farmed portion of the tract. Furthermore, Publication 122 provides “[i]f idle land is part of a farm but could not be cropped without additional improvements, it may be assessed as wasteland if the idle portion of the parcel is smaller than the farmed portion of the parcel.”

Based on this statutory definition of a farm, and the guidance from Publication 122, the Board finds the evidence clearly shows the subject property has an agricultural use. The Board finds the evidence shows the only use of the subject property is as part of the appellants’ farm. The parties agree that the subject property cannot be improved or farmed due to its creek location and poor terrain. The parties further agree that the subject property consists of a creek and land along the creek and that the appellants’ 207 acre farm tract is a farm. Furthermore, Mr. Reifschneider testified that the subject property is part of a drainage corridor that serves the appellants’ 207 acre farm. Thus, based on this evidence, the Board finds the subject property contributes to the productivity of the appellants’ farm as part of the farm’s drainage corridor, and is entitled to a

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farmland classification and assessment as contributory wasteland as provided by Publication 122 and Section 10-125(d) of the Property Tax Code.

The Board gave little weight to the board of review's arguments that the subject property cannot be part of the farm because it is separated from the 207 acre farm tract by a creek and is located in a different township. The evidence shows the subject property was previously classified as a farm when it was part of the parent parcel, which the board of review did not dispute.

The Board gave little weight to the board of review's argument that the subject property cannot be part of the appellants' farm due to the 2005 annexation, which excluded the subject property. The board of review did not argue any change in use of the subject property to support the re-classification and did not explain why the subject property's classification was changed. The appellants testified there had been no change in the use of the farm tract and the subject property. The board of review did not dispute that the appellants' 207 acre farm tract is a farm.

The Board also gave little weight to the appellants' argument that the subject property is idle land. The parties agree the subject property cannot be farmed or improved due to its creek location and poor terrain. The Board finds that although the subject property is part of a farm and is smaller than the farmed 207 acre tract, the subject property cannot be cropped without additional improvements, and thus, does not qualify as idle land.

The Board finds the subject property complies with the two year farm use requirement of section 10-110 of the Property Tax Code. (35 ILCS 200/10-110). The subject property was used as part of a farm for the 2020 assessment year and for the prior two years. The testimony at hearing revealed that the subject property was historically used as part of a farm and had a farm classification until 2005, when the adjacent farm parcels were annexed into the City of Belleville but the subject property was not. The evidence shows that new parcel identification numbers were created for the subject property when the parent parcel was divided for annexation purposes, but the board of review did not argue that any change in use of the subject property occurred, only that the new parcels were created and inexplicably re-classified. The appellants testified they have continued the existing farm use of the subject property and the 207 acre farm tract.

Based on this record, the Board finds the subject property is entitled to a farmland classification and assessment as contributory wasteland. Therefore, the Board finds the subject's assessment as established by the board of review is incorrect and a reduction is warranted in accordance with rounding to whole dollars as shown in the board of review's supplemental submission of the appropriate contributory wasteland assessment of these parcels.

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APPELLANT:	Shane Stewart
DOCKET NUMBER:	20-06444.001-F-1
DATE DECIDED:	February 2023
COUNTY:	Douglas
RESULT:	Reduction

The subject property has a 36.64 acre site consisting of 31.66 acres of farmland and 4.98 acres of homesite.¹ The property is improved with a 1.5-story dwelling of log exterior construction with 4,568 square feet of living area.² The dwelling was constructed in 2008 and is approximately 12 years old. Features of the home include a basement with finished area, central air conditioning, a fireplace, a 2-car attached garage, a 4-car detached garage, a 3,200 square foot pool house, an inground swimming pool, and a 390 square foot boat house. The property is also improved with a 4,800 square foot metal horse barn with a concrete floor and two overhead doors that was built in 2009. The property is located in Tuscola, Garrett Township, Douglas County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$430,000 as of December 3, 2020. The appraisal was prepared by Bruce E. Cannon, a certified general real estate appraiser, for ad valorem tax purposes.

The appraiser conducted an exterior only inspection. The appraiser stated the subject home was custom built by the appellant and noted some exterior deferred maintenance, from which the appraiser concluded depreciation beyond the subject's age and a fair condition for the subject home.

Under the sales comparison approach, the appraiser selected six comparable sales located in Tuscola, Mattoon, and Charleston and from 7.12 to 24.22 miles from the subject property. The appraiser explained there were few sales of comparable properties in Tuscola so the appraiser expanded the range to Douglas and Coles Counties. The parcels range in size from 0.46 of an acre, or 20,010 square feet, to 5.19 acres of land area. The appraiser explained some comparables have smaller sites but have exclusive county club locations, and thus, are considered to have similar values to the subject's homesite.

The comparables are improved with ranch, traditional, or contemporary style homes ranging in size from 2,685 to 5,435 square feet of living area. The appraiser reported the comparables are custom homes like the subject. The dwellings range in age from 17 to 30 years old. Three homes each have a basement with finished area. Each home has central air conditioning and a 3-car

¹ Additional details regarding the subject's land not reported by the appellant are found in the board of review's evidence.

² The parties differ regarding the subject's dwelling size. The Board finds the best evidence of the subject's dwelling size to be the appellant's appraisal, which contains a sketch of the subject home entitled "Assessors Drawing" whereas the board of review submitted inconsistent evidence of dwelling sizes significantly greater than the appraisal. The dwelling size described in the appraisal is further supported by an older appraisal submitted by the appellant describing 4,510 square feet of living area for the subject home, which is similar to the 4,568 described in the more recent appraisal presented by the appellant.

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attached garage.³ Comparables #2 and #4 each have an inground swimming pool. Comparable #5 has an 1,800 square foot post and frame barn and comparable #6 is described as having “Barns.” The appraiser explained no adjustments were made relative to the subject’s pool amenities as these amenities are seasonal and do not contribute greatly to value. The appraiser also stated a small adjustment was made for comparables without barns, but explained the market does not indicate match pricing for this amenity.

The comparables sold from April 2019 to October 2020 for prices ranging from \$340,000 to \$550,000 or from \$69.33 to \$161.35 per square foot of living area, including land. The appraiser made adjustments to these comparables for financing concessions and for differences from the subject, such as condition, room count, dwelling size, foundation type and basement finish, garage size, and other amenities, to arrive at adjusted sale prices ranging from \$326,000 to \$509,000.

Under the cost approach, the appraiser estimated a site value of \$30,000 and calculated the replacement cost new of the subject home, two garages, pool house, and other improvements as \$1,007,008. The appraiser then deducted depreciation of \$621,022 to arrive at a depreciated cost of improvements of \$385,986. The appraiser concluded an indicated value of \$415,986 under the cost approach.

In reconciling these two approaches, the appraiser gave little weight to the cost approach, explaining that the subject was overdeveloped for the market and that the sales comparison approach was more reliable. Based on the foregoing, the appraiser opined a market value for the subject of \$430,000 as of December 3, 2020.

The appellant submitted a brief contending that the township assessor had no objection to the value conclusion contained in the appellant’s appraisal. The appellant presented a letter dated February 24, 2021 from the township assessor expressing an opinion that an appraisal by a licensed appraiser should always be accepted as evidence of market value. The appellant further contended the board of review has relied on listing information to determine the subject’s dwelling size. The appellant stated that a 2011 appraisal indicated the subject’s market value was \$420,000 and presented a copy of this 2011 appraisal which opines a market value of \$420,000 as of December 6, 2011.⁴ The appellant presented a list of the number of properties valued over \$500,000 in various counties and information regarding the subject’s assessment.

Based on this evidence the appellant requested a reduction in the subject’s assessment to reflect the appraised value conclusion as of December 3, 2020.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$217,519. The subject has a farmland assessment of \$2,381, a homesite assessment of \$16,598, a residence assessment of \$178,165, and an outbuildings assessment of \$20,375. The subject's homesite and residence assessments total \$194,763 and

³ The Board notes that the appraiser did not specify the garage size for comparables #1 through #3 but made the same adjustment for garage size as for comparables #4 through #6 which are each described as having a 3-car attached garage, suggesting that comparables #1 through #3 also each have a 3-car attached garage.

⁴ The Board finds this appraisal, which states an opinion of value as of December 6, 2011 and relies on comparables sales occurring from 2009 to 2011, is too remote from the January 1, 2020 assessment date to be indicative of market value as of that date; consequently, the Board shall not further consider this appraisal.

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reflect a market value of \$583,123 or \$127.65 per square foot of living area, land included,⁵ when using the 2020 three year average median level of assessment for Douglas County of 33.40% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted a market analysis prepared by Cathy Means, the board of review's Chairman. Means selected five comparables located in Monticello, Mansfield, and Champaign and from 21 to 29 miles from the subject property. The parcels range in size from 0.50 of an acre to 10+ acres of land area and are improved with 1-story, 1.5-story, or 2-story homes of a combination of brick, cedar, stone, and/or vinyl siding exterior construction. The homes range in size from 2,890 to 5,519 square feet of living area and are from 1 to 20 years old. Each home has a basement, four of which have finished area. Four comparables sold in July or August 2021 for prices ranging from \$550,000 to \$948,000 or from \$147.28 to \$201.96 per square foot of living area, including land. One comparable is listed for \$685,000 or \$124.12 per square foot of living area, including land. Means made adjustments to these comparables for differences from the subject to arrive at adjusted sale prices ranging from \$550,000 to \$963,200. Based on the foregoing, Means suggested a marketing price of \$778,875.

The board of review submitted a brief contending that the 2020 appraisal omits a 2,400 square foot detached garage, a 3,200 square foot pool house, one full bathroom, and eight half bathrooms. The board of review questioned the appraiser's description of the subject dwelling in fair condition and whether any of the subject's land is still being used as farmland. The board of review presented a listing sheet for the subject, which describes a listing price of \$1,984,000, six full bathrooms, and one half bathroom.

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

In written rebuttal,⁶ the appellant explained the subject property was listed in 2018 by court order for the amount of a tax lien on the property; however, the subject property did not sell. The appellant argued the market analysis submitted by the board of review is not an appraisal.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

As an initial matter, the Board finds the appellant failed to present evidence to support a reduction in the subject's farmland and outbuildings assessments. Farmland is assessed according to productivity and use and outbuildings are assessed according to their contributory value to the

⁵ Calculated based on 4,568 square feet of living area.

⁶ The appellant submitted two additional letters in rebuttal, one of which was postmarked January 24, 2022 and one of which appears to have been hand delivered on January 27, 2022. These two letters were not timely filed before the January 22, 2022 deadline for the submission of rebuttal evidence and shall not be considered herein.

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farm. Moreover, the appellant's appraisal omits the farmland in its value conclusion. Therefore, the Board finds reductions in the subject's farmland and outbuildings assessments are not warranted.

With respect to the subject's residence and homesite, the appellant presented an appraisal and the board of review presented a market analysis in support of their respective positions before the Board.

The Board gives less weight to the suggested marketing price presented in the board of review's market analysis. The market analysis relies on four sales occurring in July and August 2021, which are more remote in time from the January 1, 2020 assessment date and less likely to be indicative of market value as of that date. Moreover, the market analysis relies on a listing, which is not a sale and is also less likely to be indicative of market value as of the January 1, 2020 assessment date.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant. Although this appraisal states a value conclusion as of December 3, 2020 rather than the January 1, 2020 assessment date, the comparable sales selected by the appraiser sold proximate in time to the assessment date. The appraiser explained the adjustments to these comparables and how the adjustments were calculated. The subject's assessment reflects a market value of \$583,123 or \$127.65 per square foot of living area, including land, which is above the appraised value. The Board finds the subject property's residence and homesite had a market value of \$430,000 as of the assessment date at issue. Since market value has been established the 2020 three year average median level of assessments for Douglas County of 33.40% as determined by the Illinois Department of Revenue shall apply. (86 Ill. Admin. Code § 1910.50(c)(1)).

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PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2023 COMMERCIAL DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
Printed by Authority of the State of Illinois

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APPELLANT:	<u>American Way Storage, LLC</u>
DOCKET NUMBER:	<u>21-06320.001-C-1</u>
DATE DECIDED:	<u>April 2023</u>
COUNTY:	<u>Coles</u>
RESULT:	<u>Reduction</u>

The subject property consists of a site containing approximately 27,878 square feet of land area. The subject site contains from time-to-time a varying number of self-storage units each containing 200 square feet of building area.¹ Each unit has a steel exterior and a wood base that is not affixed or attached to the ground. There are no utilities of any kind hooked up to the units. The subject site is located in Mattoon, Mattoon Township, Coles County.

The appellant appeared before the Property Tax Appeal Board through counsel, Billie Constant, asserting contention of law as the basis of the appeal. In support of this argument, the taxpayer submitted a brief contending that the appellant owns and operates multiple self-storage facilities in the state of Illinois, with Mattoon, the site of the subject property, being the headquarters of the company. The taxpayer in his brief noted that the “portable” units are intended to remain at any one site temporarily. The taxpayer also asserted that the “intent is to test the site for storage demand and build a permanent site if demand warrants it, and then relocate the buildings to the next test site or to a new rental location.” He added that the units on the subject site are moved from time to time to different sites for rental, and many of the portable units at the subject location are typically moved in any given year to different rental locations. As such, the taxpayer argued that these temporary “portable” units are personal property and not real property, and therefore, should not be assessed as real estate. The appellant further argued in his brief that the County has “... decided to now treat any business in the County differently than residential parcels, noting they intend to only tax businesses who have portable buildings of less than 240 square feet, and plan to tax it as if it were real estate, attaching the tax to whatever parcel the property happens to be located on January 1st of the year.”

In his brief, the taxpayer cited In re Casper, 156 B.R. 794, 800 (Bankr. S.D. Ill. 1993), Sword v. Law, 122 Ill. 487, 496 (1887), and Beeler v. Boylan, 62 Ill. Dec. 385 (1982), three decisions issued by the Federal Bankruptcy Court for the Southern District of Illinois, the Illinois Supreme Court, and the Illinois Appellate Court, respectively. Relying on the aforementioned case law, the taxpayer argues that the Illinois courts apply three criteria to determine whether or not an article or structure is a fixture so as to be treated as real or personal property: 1) Actual annexation to the real property; 2) application of the property in question to the use or purpose for which the land is appropriated; and 3) the intention to make the property in question a permanent accession to the realty. Of these three criteria, the taxpayer argues that the “intention” is the most important factor and the first two “merely bear upon and give evidence of the affixer’s intent.” Applying this test to the case on appeal, the appellant contends that “the temporary portable non-affixed buildings of 240 square feet or less, which are intended to be moved and have in fact been moved from time to

¹ The representative for the board of review testified that a total of 27 storage units were on the subject site on the January 1, 2021 assessment date at issue, but that number does vary. The property record cards submitted by the board of review describe each unit to be 200 square feet in size. This was not disputed by the appellant’s counsel.

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time, constitute personal property.” Lastly, the taxpayer contends in his brief that prior to purchasing the portable buildings in question, the taxpayer contacted the Coles County Assessor’s Office which confirmed to him that the County does not tax portable sheds as long as they are 240 square feet or less in size.

Attorney Constant argued at the hearing before the Property Tax Appeal Board that the storage buildings in question are “portable”, and they are intended to be moved and are in fact moved from time to time. These units also have a relatively short physical life of no more than 20 years and are replaced much earlier than that. The appellant operates thirteen storage locations throughout the state of Illinois where these units may be moved depending on the storage needs at each location. For instance, if there is a flood or other natural disaster, individual units may be dropped off at a place of residence or business as requested. The units are leased on a month-to-month basis and there are no long-term contracts but rather strictly on an as-needed basis. Upon questioning by the Administrative Law Judge, counsel explained that within the last six months, approximately one dozen units were moved from the subject property to different locations within the state. A customer may arrange to move the storage unit(s) themselves or have the appellant load them on a flatbed trailer and move them to a desired location. Each unit is small enough to be moved and loaded by a skid steer as they each rest on top of a 2x4 wood pallet-type frame.

Based on these arguments and case law concerning both personal property and lack of uniformity in assessment treatment, the appellant requested that the improvement assessment be removed and only the undisputed assessment on the underlying land in the amount of \$4,779 remain.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject parcel’s total assessment of \$47,736 was disclosed. The total assessment includes a land assessment in the amount of \$4,779 and improvement assessment of \$42,957.

In support of its contention of the correct classification and assessment, the board of review submitted a letter addressed to the Property Tax Appeal Board dated July 22, 2022. In the letter written by the Coles County Board of Review Clerk, Denise Shores, the board of review set forth the arguments in support of the subject’s classification and assessment. The board of review first clarified that it is the policy in Coles County to assess storage sheds located at residential homes only if they contain 240 square feet or more building area. However, if the shed is located on commercial property and/or being used for commercial purposes, it will be assessed as real estate if it is 80 square feet in size or larger. Shores explained that when the appellant contacted the Coles County Assessor’s Office about the assessment practices for storage sheds, he did not clarify that the units in question will be used for commercial purposes. If the appellant had mentioned the nature and intended use, he would have been told that any structure over 80 square feet in size would be placed on the tax roll as real property.

In further support of the subject’s assessment, the board of review submitted property record cards for the subject’s land and each of the 27 storage sheds,² along with property record cards for four comparable properties each located in Charleston. No grid analysis was presented. Based on the

² The board of review submission includes one property record card for the subject site (“card 1 of 3 page 1”) along with individual property record cards for each of the 27 storage sheds (card 2 of 3, pages 1 through 15, and card 3 of 3, pages 1 through 11).

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property record cards as to the four comparable properties in Charleston, each property contains at least one large metal frame building ranging in size from 3,800 to 8,400 square feet of building area. In addition to the larger building(s), the four comparables also include a varying number of smaller units of varying size.³ One of the subject's property record cards has a notation dated June 21, 2021 stating that "[t]here are 27 10x20 storage modules on site. Each module is divided into various sizes of individual self-storage units. The new storage buildings are basically sheds on skids with metal siding and roofs." Finally, the board of review submission includes several color aerial and ground photographs taken of the subject property in March and July 2022 depicting more sheds that were added to the subject property with the addition of streetlights at the subject site.

Board of review member, Matt Frederick, appeared and testified before the Property Tax Appeal Board on behalf of Coles County. Frederick conceded that the units are on skids, however, as the photographs submitted into evidence depict, there are approximately 35 buildings on the subject site and are layered linearly as fixed storage would be so as to facilitate customers driving in and loading/unloading at the site. Frederick reiterated that commercial storage facilities greater than 80 square feet in size are assessed as real property in Coles County. Frederick asserted that the appellant's business model is similar to those of other businesses in the County with fixed buildings and should be treated the same. He conceded that the storage units/buildings on the subject property are movable and have a "shorter shelf life" or "accelerated depreciation" when compared to the fixed storage units. However, Frederick argued that the fact that the subject units are used commercially and are arranged in rows to provide easy access for customers to load and unload demonstrates that they are intended to be more permanent because it is not feasible for the individual units to be easily moved given their configuration.

Upon questioning from the Administrative Law Judge, Frederick stated that there were 27 units on the subject site as of January 2021, but he was not able to state whether or not that number of units changed during the 2021 tax year. However, the following year, (in 2022), the number of units increased to 35 as depicted in the photos submitted into evidence. Upon further questioning, Frederick acknowledged that theoretically speaking, if the number of units decreased from one year to the next and the appellant appealed the improvement assessment, the board of review would adjust the improvement assessment downward as the assessment is based on the total number of buildings.

Based on the evidence submitted and arguments presented, the board of review requested that the storage units in question be classified as real property and that the improvement assessment be confirmed.

Conclusion of Law

The appellant sets forth a contention of law as the basis of the appeal. Specifically, the appellant contends that the storage units that are located on the subject site should be properly classified as

³ The property record cards associated with the four comparable properties depict the larger steel building as a permanent structure affixed to the ground and there is no evidence in the record or testimony from the board of review to suggest that any of these larger structures were ever moved after being placed at their current locations.

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personal property rather than real property and, therefore, should not be assessed as real estate and/or have not been equitably assessed in Coles County.

Section 10-15 of the Illinois Administrative Procedure Act (5 ILCS 100/10-15) provides:

Standard of Proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The Board first turns to the appellant's contention of inequity in assessment process and the Coles County policy regarding the assessment of storage units in general, including the ones that are the subject matter of this appeal. The evidence in the record discloses that it is the policy of the Coles County Board of Review to assess storage sheds as real estate and be placed on the tax roll only if they are 80 square feet in size or larger and/or being used for commercial purposes. However, if a storage unit is located on residential property, it will not be assessed as real estate unless it is 240 square feet in size or larger. The board of review acknowledged that any one of the appellant's storage sheds that contain 200 square feet of building area would not be taxed if it was located on residential property. The Board finds this disparate treatment of like-kind property based solely on their location on residential or commercial property inequitable and in violation of the constitutional principle of uniformity. The Board finds there is an obvious inequity in assessment treatment in this case. See Kankakee County Bd. of Review v. Property Tax Appeal Bd., 131 Ill. 2d 1, 544 N.E.2d 762 (1989). The appellant raised the lack of uniformity argument in his brief asserting that Coles County has "... decided to now treat any business in the County differently than residents, noting they intend to only tax businesses who have portable buildings of less than 240 square feet, and plan to tax it as if it were real estate, attaching the tax to whatever parcel the property happens to be located on January 1st of the year." This assertion was confirmed by the Coles County board of review in their memorandum as follows: "It is Coles County's rule of thumb that a storage shed at a residential home is 240 sq ft before it is put into the tax roll, if however it is commercial and being used as commercial the shed is put on tax roll after 80 sq ft." (*sic*).

It is well-established in Illinois that it is unlawful for an assessor to exempt one kind of property while classifying the same kind of property in the same district as nonexempt. Id. Uniformity requires not only uniformity in the level of taxation, but also in the basis for achieving the levels. Kankakee County Bd. of Review v. Property Tax Appeal Bd., 131 Ill. 2d 1, 544 N.E.2d 762 (1989). Any attempts to correct disparities in assessments must be applied in a uniform manner. Thus, the Property Tax Appeal Board finds the Coles County Board of Review and township assessor violated the uniformity clause of the Illinois constitution and their assessment practices are against the holding in Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 229, Ill. Dec. 487, (1998). In Kankakee, our Supreme Court explained as follows:

The principle of uniformity of taxation requires equality in the burden of taxation. (People ex rel. Hawthorne v. Bartlow (1983), 111 Ill. App. 3d 513, 520.) This court has held that an equal tax burden cannot exist without uniformity in both the basis of assessment and in the rate of taxation. (Apex Motor Fuel Co. v. Barrett (1960), 20 Ill. 2d 395, 401.) The uniformity requirement prohibits taxing officials from valuating one kind of property

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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. Apex Motor Fuel Co. v. Barrett (1960), 20 Ill. 2d 395, 401; People ex rel. Hawthorne v. Bartlow (1983), 111 Ill. App. 3d 513, 520.

Here, Coles County expressly acknowledged that given sheds of equal size and characteristics, it is only the **location** on either residential or commercial sites that is the sole determining factor as to whether or not it will be subject to taxation. It may be implied that the commercially used shed of equal size has a greater market value due to its capacity to earn income, but in application of the County policy, the opposite appears to be the case. For example, according to the Coles County policy, if a shed is less than 80 square feet in size and located on commercial property, it would not be subject to taxation. Conversely, if a shed is greater than 240 square feet and located on residential property, it would be placed on the tax roll. In either case, the income capacity and the market value is inconsequential, but rather only the location determines whether or not sheds of same size and utility will be subject to taxation. This policy by the Coles County Assessor creates a substantial disparity between similar properties and/or classes of taxpayers. See id. at 20.

Lastly, the board of review asserted that the County has “many other commercial properties that contain this type of buildings and they are being taxed.” As to this argument, the Board finds that the four comparable properties that the board of review submitted do not overcome the unequal treatment that is admitted herein between like-sized sheds situated either on commercial or residential parcels.

Based on the evidence in this record, the assessment placed on the subject storage sheds does not conform to the principles of uniformity. Therefore, the Board finds that the improvement assessment on the subject property should be removed and a reduction in the subject’s assessment commensurate with the appellant’s request is warranted.

With respect to the issue of personal vs. real property, the Property Tax Appeal Board need not further address this aspect of the appeal as the reduction has been granted on the ground of lack of uniformity.

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APPELLANT:	<u>Diesel Radiator Company, Inc.</u>
DOCKET NUMBER:	<u>21-06634.001-C-1</u>
DATE DECIDED:	<u>December 2023</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>Reduction</u>

The subject property consists of a one-story, single-tenant, masonry industrial building containing 19,232 square feet of gross building area of which approximately 2,432 square feet or 12.7% is office space. The building was constructed in 1969 and is approximately 50 years old. Features include a concrete slab foundation, a warehouse with 14 to 16 foot clear ceiling heights, a 100% wet sprinkler system, a depressed truck dock and a series of interior drive-in doors on the west, north and south elevations along with two 5-ton overhead cranes on one rail. The property has a 40,533 square foot site for a land-to-building ratio of 2.11:1 and is located in Elk Grove Village, Addison Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by First Real Estate Services, Ltd. and signed by four individuals, three appraisers and one an appraisal trainee, estimating the subject property had a market value of \$1,160,000 as of January 1, 2019. Ronda Sandic, Gary M. Skish and Gary T. Peterson are each Certified General Real Estate Appraisers in Illinois and John Pamphilis at the time of the report was an Illinois Associate Real Estate Trainee Appraiser. The purpose of the appraisal is to develop an opinion of the fee simple retrospective market value for *ad valorem* purposes. Intended users are the client, the client's attorney, the DuPage County Assessor, DuPage County Board of Review and the Illinois Property Tax Appeal Board. (Appraisal, Summary of Salient Facts & p. 3, 6)

The appraiser(s) inspected the subject property on June 15, 2020 and described the subject to be in average overall condition. Noted items of deferred maintenance included separation cracks at the interior partition wall where it meets the south elevation wall due to settling; broken, chipped, and cracked bricks and areas with eroded mortar in need of tuckpointing on north, south and west elevations; water stained masonry block wall on interior of south elevation; cracks in concrete slab in multiple areas of warehouse flooring; cracks in asphalt parking lot; rust and corrosion on steel frame warehouse windows; and water stained acoustical ceiling tiles in the office area. The appraisers noted functional obsolescence of the subject due to interior walls that restrict uniform warehousing and efficient process flow along with limited parking area for a building of its size, despite the availability of off-street parking. Likewise, external obsolescence was reported since street parking is restricted to one side of the street with a two-hour limit, restricting the parking for the number of employees and visitors to the property. (Appraisal, p. 6 & 23-24)

The appraisers opined both an exposure and marketing time for the subject property of approximately 4 to 6 months. (Appraisal, p. 4)

The appraisers calculated a total estimated economic life of 45 years, an estimated effective age of 35 years, resulting in an estimated remaining economic life of 10 years for the subject. (Appraisal, p. 28) A highest and best use analysis was prepared and concluded the best use of the subject site

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as-vacant would be industrial use and in its as-is state, was determined to be continued use as a single-tenant industrial building. (Appraisal, p. 31-34)

At appraisal pages 37 to 50, an income approach to value was prepared using ten lease comparables located in Elk Grove Village, Wood Dale and Bensenville. These comparables were summarized on page 39 and ranged in leased square footage from 5,600 to 36,459 square feet of gross building area. These comparables had rental rates ranging from \$4.46 to \$7.20 per square foot of building area. After considering adjustments, the appraisers concluded that the subject would have a market rent of \$6.00 per square foot resulting in a potential rental income of \$115,392 along with additional expense reimbursements of \$2.25 per square foot for a total potential gross income (PGI) of \$158,664. The appraisal set forth that historical vacancy and credit loss typically is from 5% to 20% of PGI. Based on this data, it was estimated the subject would have an 8% or \$12,693 allowance for vacancy and credit loss resulting in an effective gross income (EGI) of \$145,971. The appraiser next estimated operating expenses for the subject of \$22,033 resulting in net operating income (NOI) of \$123,938.

The final step under the income approach was to estimate the direct capitalization rate to be applied to the subject's net income. Using national survey data and the band of investment method resulted in a capitalization rate of 7.75%. Next, the appraisers calculated a loaded capitalization rate to account for the real estate tax expense resulting in a loaded capitalization rate of 10.61%. Capitalizing the subject's estimated net income of \$123,938 by 10.61% resulted in an estimated value under the income approach of \$1,170,000, rounded.

Using the sales comparison approach to value on appraisal pages 51 to 63, the appraisers examined five comparable sales of industrial buildings that were each reported to have an effective age of 35 years. The comparables were located in Elk Grove Village. The comparables range in size from 8,904 to 19,499 square feet of gross building area. The comparables sold from November 2016 to September 2019 for prices ranging from \$495,000 to \$1,250,000 or from \$53.45 to \$64.10 per square foot of gross building area, including land. Having adjusted these sales prices for differences from the subject concerning conditions of sale, size, land-to-building ratio, office space, ceiling height, truck docks/doors and construction/configuration, the appraisers arrived at adjusted mean/median sales prices of \$58.19/\$55.59 per square foot of gross building area, including land, to arrive at an estimated market value for the subject of \$60.00 per square foot of gross building area, including land, or \$1,155,000 (rounded).

In reconciling the two approaches to value in the report at pages 64 and 65, the appraisers placed primary emphasis on the sales comparison approach in concluding a value for the subject as of January 1, 2019 of \$1,160,000.

Based on this evidence, the appellant requested a total assessment of \$386,628 which would reflect a market value of \$1,160,000, including land, when applying the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$465,020. The subject's assessment reflects a market value of \$1,391,026 or \$72.33 per square foot of building area, land included, when using the 2021 three

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year average median level of assessment for DuPage County of 33.43% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review asserted that there was a stipulation on this property in 2019 before the Property Tax Appeal Board. Thus, the only changes to the assessment were for the Addison Township factors applied to all non-farm properties in the township for 2020 and 2021 of 1.04 and 1.044, respectively.¹ Based on the foregoing, the board of review requested confirmation of the subject's assessment.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best and only evidence of market value in the record to be the appraisal submitted by the appellant. The board of review failed to present any market value evidence to contradict the appraised value conclusion and/or to support the subject's current assessed valuation. Furthermore, since there is no provision in the Property Tax Code to maintain the assessment of a non-owner-occupied residence (i.e., commercial or industrial building) as set forth in Section 16-185 (35 ILCS 200/16-185), there is no basis in law to give any credence to the prior stipulation of the parties that has only been increased over the prior two tax years by the application of township multipliers.

The subject's assessment reflects a market value of \$1,391,026 or \$72.33 per square foot of building area, including land, which is above the appraised value conclusion of \$1,160,000 in the record. The Board finds, in the absence of any counter market value evidence, that the subject property had a market value of \$1,160,000 as of the assessment date at issue. Since market value has been established on this limited record the 2021 three year average median level of assessments for DuPage County of 33.43% as determined by the Illinois Department of Revenue shall apply with rounding to the nearest 10 as is applied in DuPage County. (86 Ill.Admin.Code §1910.50(c)(1)).

¹ Taking notice of the total assessment in the 2019 tax year stipulation in Docket No. 19-08996 of $\$428,290 \times 1.04 = \$445,422$ $\times 1.044 = 465,020$ (recognizing that DuPage County has a practice of rounding to the nearest 10). Thus, resulting in no change in the current assessment under this mathematical analysis.

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APPELLANT:	Excalibur Seasoning Co. LTD
DOCKET NUMBER:	21-05463.001-C-1
DATE DECIDED:	August 2023
COUNTY:	Tazewell
RESULT:	Reduction

The subject property consists of two, one-story warehouse buildings of steel and frame construction that were built in 1993 and 2016. The buildings total 48,080 square feet of building area and are situated on a 65,340 square foot site with a land to building ratio of 1.36:1. The subject property is located in Cincinnati Township, Tazewell County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted three comparable sales with varying degrees of similarity when compared to the subject. The comparables sold from February 2018 to December 2019 for prices ranging from \$590,000 to \$1,600,000 or from \$22.30 to \$33.68 per square foot of building area including land.

The board of review did not timely submit its "Board of Review Notes on Appeal" or any evidence in support of its assessment of the subject property as required by section 1910.40(a) of the rules of the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.40(a). Therefore, the board of review was found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.69(a).

Conclusion of Law

The taxpayer argued 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). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted three comparable sales to support the contention that the subject property is overvalued. The Board finds the board of review did not submit any evidence in support of the correct assessment of the subject property or to refute the value evidence submitted by the appellant. 86 Ill.Admin.Code §1910.40(a). Therefore, the board of review was found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.69(a). The comparable sales submitted by the appellant have varying degrees of similarity when compared to the subject and sold from February 2018 to December 2019 for prices ranging from \$590,000 to \$1,600,000 or from \$22.30 to \$33.68 per square foot of building area including land. The subject's assessment reflects an estimated market value of \$1,800,180 or \$37.44 per square foot of building area including land, which falls above the range established by the only comparable sales contained in the record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is excessive and a reduction is warranted.

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APPELLANT:	MH Exchange V LLC
DOCKET NUMBER:	21-06546.001-C-3
DATE DECIDED:	November 2023
COUNTY:	St. Clair
RESULT:	Reduction

The subject property consists of a single-story movie theater property of concrete block exterior construction with a concrete slab foundation. The 54,339 square foot building was constructed in 1997 and renovated in 2017. Features include a wet fire sprinkler system, 16 movie screens, restrooms, a ticket counter, a concession stand, a bar area and a two-level mezzanine. The property has an 8.57-acre site has asphalt with 630 parking spaces and is located in O'Fallon, Caseyville Township, St. Clair County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Robert D. Becker, a Certified General Real Estate Appraiser, estimating the subject property had a market value of \$4 million as of January 1, 2021.

The purpose of the appraisal was for an *ad valorem* tax appeal where the property rights appraised were fee simple. As part of the report, the appraiser opined a land value of \$2,200,000 or \$6.00 per square foot of land area after analyzing four land sales (Appraisal, p. 52-56). Commencing on page 57 of the appraisal, Becker developed the cost approach to value to estimate the subject's market value at \$4,300,000 (Appraisal, p. 61). Using the sales comparison approach to value, the appraiser examined six sales of suggested comparable cinema properties that were located in Omaha, Nebraska, Vernon Hills, Columbus, Ohio, Hickory Creek, Texas, Fairview Heights and Oswego. Having adjusted these sales prices for differences from the subject, the appraiser arrived at adjusted sales prices ranging from \$34 to \$83 per square foot to arrive at an estimated market value for the subject of \$4,100,000 or \$75 per square foot. The appraiser also prepared the income approach to value by analyzing six rental comparables located in Chicago, Normal, Columbus, Ohio, Sandusky, Ohio and Snellville, Georgia. Through this process, the appraiser opined the subject's market value under the income approach to be \$3,800,000.

In reconciling the three approaches to value, the appraiser placed most weight on the sales comparison approach (Appraisal, p. 77) and concluded a value for the subject of \$4,000,000.

Based on this evidence the appellant requested the subject's assessment be reduced to \$1,666,500 which would reflect a market value of \$5,000,000 when utilizing the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of \$2,207,832. The subject's assessment reflects a market value of \$6,612,255 or \$121.69 per square foot of building area, 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.

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In response to the appeal and in support of the correct assessment, the board of review submitted a statement that the “board of review feels that the depreciation rate of 2% per year since this building was first built in 1997 that is a 50% rate of depreciation; that the appraiser rate of 84% is far too high. Giving 50% depreciation on the building and improvement using the RCN from the appraisal adding in the land value from appraisal of 2,200,000 the market value should be \$7,614,725 which is higher than the [assessment].” As part of additional documentation, the board of review set forth various calculations using the appraisal’s replacement cost new (RCN) of \$10,829,451 less 50% depreciation for a RCN of \$5,414,725 plus the land value of \$2,200,000 for a total of \$7,614,725.

The board of review also asserted that the property record card depicts a RCN of \$6,215,560 with 18% depreciation or \$5,096,759, plus site improvements of \$611,136 would show a depreciated RCN of \$6,826,696 plus land value of \$1,868,677 for a total value of \$8,695,373.

In addition, the board of review submitted a copy of the sales comparables from the appellant’s appraisal and “circled” the locations of comparables #1, #3 and #4 in Nebraska, Ohio and Texas along with a comment “all sales comps are closed down unused buildings at the time of the sales.”

A copy of the subject’s property record card submitted by the board of review includes the following hand-written remarks: “They purchased this property in 12/16 for \$5,900,000 and have put \$2,500,000 into it since” with permits from August 2017 and October 2018 also highlighted on the document.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of \$4,000,000 as of January 1, 2021, while the board of review submitted no appraisal or market value evidence, but only criticized various aspects of the appellant's appraisal. The Property Tax Appeal Board finds the criticisms presented by the board of review are either irrelevant to a market value determination, erroneous assertions, or criticized factual statements which were not sufficiently supported to overcome the facts presented in the appraisal. Moreover, the board of review provided no sales data to refute these sales in the appraisal report.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club v. State Property Tax Appeal Bd., 263 Ill. App. 3d 410, 418, 635 N.E.2d 1347, 1353; see also 35 ILCS 200/9-145(a). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50).

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The Illinois Supreme Court has defined fair cash value as what the 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 to do so. Springfield Marine Bank v. Property Tax Appeal Bd., 44 Ill. 2d 428 (1970). In this appeal, the board of review provided no substantive market data to support their contention that the appraised value conclusion was not a credible or reliable indicator of the subject's estimated market value as of the lien date. Therefore, on this record, the Property Tax Appeal Board finds that the board of review has failed to support the criticisms of the appraisal with any substantive market data.

The Board finds that the appraisal submitted by the appellant estimating the subject's market value of \$4,000,000 is still the best and only substantive evidence of the subject's market value in the record. Moreover, the appraisal's opinion of value was not substantively challenged with any market value evidence presented by the board of review.

Based upon the market value as stated above, the Property Tax Appeal Board finds that a reduction is warranted commensurate with the appellant's request.

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APPELLANT:	Piggery Place Holding LLC
DOCKET NUMBER:	19-29149.001-C-2
DATE DECIDED:	November 2023
COUNTY:	Cook
RESULT:	Reduction

The subject property consists of a 10,683 square foot parcel of land improved with a four-year-old, one and part four-story, masonry, mixed-use building containing approximately 12,998 square feet of building area. The property is located in Chicago, Lake View Township, Cook County and is classified as a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation and a contention of law as the bases of the appeal. In support of this argument, the appellant submitted an appraisal which estimated the subject's market value as of January 1, 2018 of \$1,000,000. The appraiser utilized the income and sales comparison approaches to value to estimate the subject's market value.

The appellant also contends the subject should be assessed as a class 2-12 property as it meets all the legal requirements of a mixed-use commercial/residential building under that classification. The appellant asserts a 10% level of assessment should apply to the market value based on this 2-12 classification. To support this argument, the appellant submitted the property record card for the subject; the Cook County, IL Code of Ordinance in regard to Class 2 Real estate; the market value percentages for the classes; and the leases for the residential units.

The board of review did not submit its "Board of Review Notes on Appeal." The subject's total assessment based on the board of review's decision is \$328,712 which reflects a market value of \$3,505,948 using the Cook County Real Estate Classification Ordinance level of assessment for class 5 property of 25%.

In support of the current assessment, the board of review submitted six comparables. The comparables sold from March 2015 to March 2017 for prices ranging from \$66.70 to \$190.00 per square foot of building area. The board of review did not address the appellant's classification argument and submitted no evidence on this issue.

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 best evidence of market value to be the appraisal submitted by the appellant. The subject's assessment reflects a market value above the best evidence of market value in the record. The appellant's appraiser utilized the income and sales comparison approaches to value in

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determining the subject's market value. The Board finds this appraisal to be persuasive because the appraisal discloses that the appraiser inspected the subject, reviewed the property's history, and used similar properties in the sales comparison approach while providing adjustments that were necessary. Therefore, the Board finds the subject property had a market value of \$1,000,000 as of the assessment date at issue.

The appellant also disputed the level of assessment of the subject property in part based upon a contention of law. Section 10-15 of the Illinois Administrative Procedure Act (5 ILCS 100/10-15) provides:

Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63.

The Board finds the appellant has shown by a preponderance of the evidence that the subject meets the requirements of a class 2 real estate and should be assessed at the level of assessment for that classification. The Board further finds the board of review did not submit any evidence to refute the appellant's evidence. Since market value has been established the Cook County Real Estate Classification Ordinance level of assessment for class 2 property of 10% shall apply.

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APPELLANT:	Target Corporation T 1168
DOCKET NUMBER:	19-09578.001-C-3
DATE DECIDED:	February 2023
COUNTY:	Lake
RESULT:	No Change

The subject property consists of a retail building with 136,189 square feet of building area and was constructed in 1998. The property has a site containing 668,557 square feet or 15.35 acres and is located in Highland Park, Moraine Township, Lake County.¹

The appellant contends overvaluation as the basis of the appeal.² In support of this argument the appellant submitted an unsigned 2019 assessment analysis on the subject property that was prepared by an unknown person from the law firm of Flanagan/Bilton LLC. The assessment analysis contained Exhibit A - Negative Factors Affecting Value, Exhibit B - Appraisal Problems with Big Box Properties, Exhibit C - Capitalization & Vacancy Rate, Exhibit D – Market Rents, Exhibit E – Rental Analysis, Exhibit F – Income Approach, Exhibit G – Sales Comps, Exhibit H – Target Stores Sold, and Exhibit I – Reconciliation. In estimating the market value of the subject property, the income capitalization and the sales comparison approaches were developed.

Under the income capitalization approach, a market value of \$6,737,000 was derived.

Under the sales comparison approach, the appellant utilized three comparable sales to estimate the subject's market value. These were sales of a Target Store, a Burlington Coat Factory and a Kohls Store. Counsel also submitted a copy of a Costar printout for the Burlington Coat Factory disclosing a building size of 89,692 and a land size of 328,878 square feet, a copy of an option agreement for the Target Store that had the buyer's name marked out. The option agreement further disclosed this was a sale a tract of land that contained 10.3 acres. These three comparables were reported to have sold from \$17.84 to \$19.24 per square foot of building area, including land. After consideration for age, size, location, and amount of time on the market, \$45.00 per square foot was considered reasonable for the subject. An additional list of eighteen Target Stores that sold since 1994 was submitted as Exhibit H, one of these sales was included in the sales comparison approach. The eighteen properties sold from March 2015 to January 2019 for prices ranging from \$315,000 to \$4,900,000 or from \$5.00 to \$52.17 per square foot of building area, including land.

In reconciling the two approaches, the appellant's counsel gave most weight to the sales comparison approach to value and arrived at an estimated market value for the subject property of \$6,162,000 or \$45.00 per square foot of building area, including land.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

¹ The subject's size was gleaned from the subject's property record card submitted by the board of review.

² The appellant also marked assessment equity as basis of the appeal. However, the Board finds there was no evidence in the record to support this argument. Therefore, the Board will not further consider the assessment inequity argument.

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The board of review submitted its "Board of Review Notes on Appeal" that disclosed a total assessment for the subject of \$6,368,964. However, according to Marty Kinczel, Chief Real Estate Appraiser for Lake County, the 2019 total assessment for the subject property was \$3,286,338.³ The subject's assessment reflects a market value of \$9,991,906 or \$73.37 per square foot of building area, land included, when using the 2019 three year average median level of assessment for Lake County of 32.89% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on five comparable sales of retail buildings located in Wilmette, Mundelein, Barrington, Vernon Hills, and Highland Park. The comparable parcels range in size from 162,043 to 581,090 square feet of land area and are improved with retail buildings that were built from 1964 to 1996. Comparables #2 and #3 were renovated in 2012 and comparable #5 was renovated in 2005. The buildings range in size from 59,885 to 160,578 square feet of above-grade building area. The comparables sold between March 2019 to December 2021 for prices ranging from \$9,450,000 to \$14,500,000 or from \$86.65 to \$213.74 per square foot of building area, including land.

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

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.

The Board finds the appellant submitted a 2019 Assessment Analysis of the subject property that contained an income approach and a sale comparison approach, and the board of review submitted five comparable sales to support their respective positions.

The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corp. v. Property Tax Appeal Bd., 69 Ill. App. 3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Bd., 187 Ill. App. 3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. Since there are credible market sales are contained in the record, the Board placed most weight on this evidence.

As to the sales comparison approach to value, the Board finds the appellant's counsel applied adjustments to three comparable sales that sold from \$17.84 to \$19.24 per square foot of building

³ Mr. Kinczel noted a certificate of error was issued after the Lake County Board of Review final decision that changed the total assessment to \$3,286,338 for the 2019 tax year. Mr. Kinczel also provided copies of the 2019 tax bill and value history printout from Lake County that disclosed the subject's assessed value was \$3,286,338 for the 2019 tax year. The appellant's petition also indicates the subject's total assessment for the 2019 tax year was \$3,286,338.

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area, including land for age, size, location, and amount of time on the market, to arrive at an estimated market value of \$45.00 per square foot of building area, including land for the subject property. The Board finds the sales comparison approach lacks sufficient detail and support for the adjustments to the comparables.

Additionally, the Board finds this evidence was prepared by an unknown person at the law firm representing the appellant and there was no evidence in the record that person holds any real estate licenses, designations, credentials, and/or other qualifications in the field of real estate valuation. Therefore, the Board finds problematical the fact that unknown person at the law firm developed the "income approach" and the "sales comparison approach" rather than an expert in the field of real estate valuation. If the evidence was prepared by counsel, the Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion of value for that client's property.

For these reasons, the Board has given no weight to the appellant's conclusion of value and finds the weight and credibility of the appellant's evidence is severely diminished.

The Board gives less weight to board of review comparable #4 which sold almost two years after the subject's lien date. The Board also gives less weight to board of review comparables #3 and #5 which have considerably smaller building sizes when compared to the subject. Despite being older buildings, the Board gives most weight to board of review comparable sales #1 and #2 which are most similar in building size. These most similar comparables sold in March and June 2019 for prices of \$11,100,000 and \$14,000,000 or \$86.65 and \$87.19 per square foot of building area, including land. The subject's assessment reflects a market value of \$9,991,906 or \$73.37 per square foot of building area, including land, which is well below the two best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	The Great American Land Company
DOCKET NUMBER:	19-00379.001-C-1
DATE DECIDED:	March 2023
COUNTY:	Coles
RESULT:	No Change

The subject property consists of two wood frame buildings with galvanized steel exterior construction and two steel grain bins.¹ One of the buildings (hereinafter the “west” building) contains 1,856 square feet of building area was built in 1960 and was remodeled/upgraded in 2016.² The second building (hereinafter the “east” building) contains 1,426 square feet of building area and was built in 1950. The two grain bins are each 18 feet in diameter, contain 255 square feet of building area, and were built in 1950. The west building has a 16-foot wall height, and the east building has a 12-foot wall height. Both buildings have concrete slab foundations, galvanized steel exterior walls and roof, and a gravel driveway. The property is located in Trilla, Pleasant Grove Township, Coles County.

The appellant contends overvaluation with respect to the improvements only as the basis of the appeal. In support of this argument, the appellant submitted a retrospective appraisal report estimating the subject property had a market value of \$15,000 as of January 1, 2019. The appraisal was prepared by Stanley D. Gordon, an Illinois Certified General Real Estate Appraiser, and the property rights appraised were fee simple estate which the appraiser defined as “as estate without limitations to any particular class of heirs or undisclosed restrictions upon use...” The appraiser identified part of the subject property as “1.34 acres in Fickes Addition to Trilla, Coles County Illinois.” The purpose of the appraisal was to develop a market value opinion of the subject property including the “site, building and improvements” for ad valorem tax assessment. The appraiser also noted on page 22 of his report that the “subject site is leased land from the railroad with minimal rent on it.” In estimating the market value of the subject property, the appellant’s appraiser developed the cost approach and the sales comparison approach to value. The appraiser noted on page 28 of his report that new exterior siding has been put on the west building and that the east building is in need of repairs. Although the west building has a chronological age of 59 years old, and the east building has a chronological age of 69 years old, the appraiser estimated the effective age of both buildings to be 40 years old with a total economic life of 50 years. The appraiser estimated the effective age taking into account “physical depreciation” without allocating or differentiating for the conditions of each building.

In arriving at the value conclusion, the appraiser developed the cost approach and the sales comparison approach to value. Estimating the subject’s value using the cost approach to value, the appraiser first estimated the value of the subject’s site by considering four comparable land sales. After making adjustments to the comparables for differences from the subject, the appraiser arrived at the market value for the subject’s site of \$5,800. Next, the appraiser calculated the

¹ The site on which the subject improvements are located is leased by the appellant and is not a subject matter of this appeal.

² The property record card submitted by the board of review depicts the renovation/upgrades occurring in 2017. The appellant claims that this is an error and that the renovations occurred in 2016. The Board finds that this relatively minor factual dispute will not impact the Board’s analysis or its decision.

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replacement cost new for the east and the west buildings together of \$43,526. After deducting for depreciation in the amount of \$35,345, the appraiser arrived at the depreciated cost of the two buildings of \$8,181. To this amount, the appraiser added the contributory value of the two grain bins together in the amount of \$2,000, plus the value of the site in the amount of \$5,800 to arrive at the subject's value of \$15,981 (or \$16,000 rounded) under the cost approach to value.

Under the sales comparison approach, the appraiser utilized three comparable sales located in Charleston, Mattoon, and Humboldt. Comparable sale #1 consists of three pole frame buildings; comparable sale #2 is a 1-story frame building; and comparable #3 is a 1-story masonry storage building. Each of the five buildings (including the three pole buildings that make up comparable #1) range in size from 1,320 to 9,440 square feet of building area and range in age from 40 to 60 years old. The comparables have sites ranging in size from 4,400 to 60,026 square feet of land area and have land-to-building ratios ranging from 1.56:1 to 19.75:1. The sales occurred from January 2017 to October 2019 for prices ranging from \$6,500 to \$35,000 or from \$1.79 to \$14.71 per square foot of building area, including land. The appraiser made adjustments to the comparables for differences from the subject including site size, age, and finished office area, to arrive at adjusted prices ranging from \$2.86 to \$10.30 per square foot of building area. From this information, the appraiser estimated the value of the subject property to be \$4.00 per square foot of building area and calculated the market value for the subject property to be \$14,769 (or \$15,000 rounded).³ The appraiser did not state whether or not the aforementioned market value includes land and improvements or improvements only. In reconciling the two approaches to value, the appraiser gave most weight to the sales comparison approach and arrived at the value for the subject property of \$15,000 as of January 1, 2019. Based on this evidence, the appellant requested the subject's total assessment be reduced.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$8,753. The subject's assessment reflects an estimated market value of \$26,548 or \$7.00 per square foot of total building area when using the 2019 three-year average median level of assessment for Coles County of 32.97% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a grid analysis containing information on three comparable sales located within 9 miles of the subject property. The comparables are improved with 1-story buildings with steel exterior construction ranging in age from 14 to 53 years old. The comparables are described to be in "good" condition. Comparables #1 and #2 have lots containing 14,000 and 7,000 square feet of land area, respectively. The site size of comparable #3 was not disclosed, however, the attached property record card depicts a 3.43-acre site. The comparables range in size from 2,880 to 6,000 square feet of building area. Comparables #1 and #3 are described as featuring central air conditioning and heating, with comparable #3 having an additional 1,650 square foot office area.⁴ The sales occurred from September 2016 to March 2020 for prices ranging from \$67,500 to \$310,000 or from \$23.43 to \$67.39 per square foot of building area, including land.

³ On page 44 of the appraisal report, the appraiser calculated the subject's market value based on a price per square foot of \$4.50 per square foot but inexplicably indicated that the subject has a value of \$4.00 per square foot.

⁴ The property record cards for the three comparables submitted by the board of review depict comparables #1 and #3 to be in a commercial zoning district and appear to be storefronts and/or commercial buildings based on the photograph and/or having an office area.

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In further support of the assessment, the board of review submitted a memorandum arguing that the appellant's appraiser gave no consideration regarding the effective age of the west building that was recently remodeled. Instead, the appraiser applied the same effective age to both buildings in spite of their differing ages built and differing conditions. The board of review argued that the west building that was remodeled should have a newer effective age and thus a higher price per square foot. The board of review also argued that the appraiser included the site and appraised the land along with the improvements even though the land is leased by the appellant and not part of the subject property. Based on this evidence and argument, the board of review requested that no change be made to the subject's assessment.

In rebuttal, the appellant argued that both east and west buildings were built in 1950 and that the west building was remodeled in 2016 (not 2017 as depicted on the property record card). The appellant attached two invoices depicting the date and expenses for the remodeling of the west building. The first invoice was in the amount of \$3,200 for replacing the bottom of wood posts with concrete columns and the second was in the amount of \$44,581 for the re-siding of the building and roof. The appellant asserted that the west building should have an effective age of 40 years and the remaining structures should have an effective age of 69 years old to reflect their chronological age. The appellant further argued that board of review comparables #1 and #3 are dissimilar to the subject due to both being storefronts with active businesses and offices located on a main commercial street in a larger town of Mattoon. Additionally, the appellant argued that these board of review comparables each have central air conditioning, heating, insulation, concrete parking lots, and bathrooms. Furthermore, appellant asserted that board of review comparable #2, although more similar to the subject in some respects than the other board of review comparables, is much newer in age when compared to the subject buildings. The appellant acknowledged that the site where the subject improvements are located is leased from a railroad company and that the appraiser should not have included the site in his appraisal.

Conclusion of Law

The appellant contends the market value of the subject improvements 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.

The appellant submitted an appraisal report and the board of review submitted three comparable sales in support of their respective positions before the Property Tax Appeal Board. Initially, the Board gives little weight to the value conclusion stated in the appraisal report arriving at an estimated market value of \$15,000. First, the appraiser included the value of the site upon which the subject improvements are located as part of the subject's overall market value. The appraiser expressly identified the site as "1.34 acres in Fickes Addition to Trilla, Coles County Illinois" and noted on page 22 of his report that the "subject site is leased land from the railroad." He also stated that the property rights appraised were fee simple estate which the appraiser himself defined "as estate without limitations to any particular class of heirs or undisclosed restrictions upon use" yet included the site which, as leased, is not a fee simple estate. The appellant also acknowledged in rebuttal that

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the site is leased and should not have been included in the overall value of the subject property. Furthermore, the Board finds there are inconsistencies and material errors in the appraisal report. The appraiser noted the renovations done to the west building making its effective age newer than the east building (which did not undergo renovations) yet the appraiser estimated the effective age of both buildings to be 40 years old with a total economic life of 50 years for the two buildings combined. Furthermore, in calculating the subject's market value of the improvements on a price per square foot basis, the appraiser indicated that the subject has a value of \$4.00 per square foot on page 44 of his report but inexplicably utilized \$4.50 per square foot in calculating the full value of the buildings. The Board finds that these errors and/or inconsistencies undermine the appraiser's opinion of value and diminish the weight the Board gives to the appraiser's value conclusion. The Board will, however, consider the three raw sales contained in the appraisal report.

The record contains a total of six comparable sales submitted by the parties in support of their respective positions before the Property Tax Appeal Board, none of which are particularly similar to the subject in all respects. The Board gave less weight to the board of review comparables #1 and #3 which are dissimilar to the subject in that they appear to be commercial buildings with office space, are larger in size relative to the subject, and they feature utilities such as plumbing, central air conditioning, and heating, which are not features of the subject buildings. The Board also gave less weight to appraisal comparable sale #3 as this sale appears to be an outlier given its low sale price of \$6,500 compared to the remaining comparables in the record. Finally, the Board gave less weight to appraisal comparable #2 based on its sale date in January 2017 which is less proximate in time to the subject's January 1, 2019 assessment date at issue than the remaining comparables in the record and therefore less likely to accurately reflect the subject's market value as of said lien date.

The Board finds the best evidence of the subject's market value is appraisal comparable #1 and board of review comparable #2 which sold more proximate in time to the lien date at issue and are relatively similar to the subject in design and utility, although they each have sites included in their overall value, unlike the subject and also differ from the subject in the number of structures and/or age. These two best comparables in the record sold in April 2018 and March 2020 for prices of \$35,000 and \$67,500 or for \$1.79 and \$23.43 per square foot of building area, land included. However, the appellant's comparable #1 includes three pole frame buildings and the board of review comparable #2 is comprised of one steel building that is newer in age when compared to the subject's two frame and steel buildings and two grain bins, suggesting that adjustments are needed to these best comparables in the record for their differences from the subject. The subject's estimated market value of \$26,548 or \$7.00 per square foot of building area as reflected by its assessment is lower than the two best comparables in the record in terms of overall value and is on the lower end of the two best comparables on a per square foot of total building area basis. Based on this record and after making appropriate adjustments to the comparables for differences from the subject such as the subject's lack of land area, the Board finds that the appellant did not establish by a preponderance of the evidence that the subject improvements are overvalued and, therefore, a reduction in the subject's assessment is not warranted.

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PROPERTY TAX APPEAL BOARD
SYNOPSIS OF REPRESENTATIVE CASES
2023 INDUSTRIAL DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
Printed by Authority of the State of Illinois

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APPELLANT:	100 Overland Drive, LLC
DOCKET NUMBER:	20-05656.001-I-2
DATE DECIDED:	May 2023
COUNTY:	Kane
RESULT:	Reduction

The subject property consists of a 1-story multi-tenant industrial building of masonry and precast concrete exterior construction with 99,436 square feet of building area.¹ The building was constructed in 1989. Features of the building include approximately 3,600 square feet, or 3.6%, of office area, a ceiling height of 22 feet in the warehouse area and 9 feet in the office area, central air conditioning in the office area, 11 loading docks, and 2 drive-in doors. The property has an approximately 239,998 square foot, or 5.52 acre, site, reflecting a land-to-building ratio of 2.43:1, and is located in North Aurora, Aurora Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$3,950,000 as of January 1, 2019. The appraisal was prepared by Andrew G. Hartigan, MAI, a certified general real estate appraiser, for ad valorem tax purposes.

Under the sales comparison approach, the appraiser selected five comparables located in Montgomery, Saint Charles, Naperville, and Aurora. The parcels range in size from 154,202 to 498,326 square feet of land area, which reflect land to building ratios ranging from 2.08:1 to 3.75:1. The comparables are improved with 1-story industrial buildings ranging in size from 65,047 to 133,000 square feet of building area that were built between 1972 and 1993. The buildings have ceiling heights ranging from 20 to 23 feet and from 4 to 8 loading docks. The comparables sold from April 2016 to July 2018 and for prices ranging from \$2,894,592 to \$5,800,000 or from \$33.42 to \$44.50 per square foot of building area, including land. After adjusting the comparables' sale prices for market conditions and for differences from the subject, such as building size, age/condition, percent of office area, and land-to-building ratio, the appraiser concluded adjusted sale prices ranging from \$35.08 to \$44.50 per square foot of building area, including land. Based on the foregoing, the appraiser opined a market value of \$40.21 per square foot of building area, including land, or \$3,950,000, rounded, under the sales comparison approach.

Under the income approach, the appraiser selected six rent comparables located in West Chicago, North Aurora, Aurora or Naperville. The comparables range in size from 17,100 to 222,000 square feet of building area and were built from 1975 to 2001. The buildings have ceiling heights ranging from 22 to 30 feet and from 4 to 8 loading docks. The comparables have rents or asking rents ranging from \$4.33 to \$6.19 per square foot of building area. The appraiser noted the subject property rents for \$3.18 and \$8.25 per square foot of building area. After adjusting the comparables for lease terms, conditions of lease, economic trends, and differences from the

¹ The Board notes the appraiser described 98,828 square feet of building area, but the appraisal does not contain a sketch with measurements of the subject building. The Board finds the best evidence of building size is found in the subject's property record card presented by the board of review, which contains a sketch with measurements and was not refuted by the appellant in written rebuttal. However, the Board finds this difference of 608 square feet of building area is not material given the subject's total building size.

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subject, such as location and features, the appraiser arrived at an estimated market rent for the subject of \$5.50 per square foot of building area or a total rental income of \$543,554. The appraiser considering the rental comparables on a modified gross lease basis and added \$168,008 to the subject's rental income for expenses reimbursable from tenants, such as utilities, repairs/maintenance, and insurance, to calculate potential gross income of \$711,562. The appraiser subtracted \$35,578 for vacancy and collection losses (or 5% based on the subject's historical vacancy and CoStar data) to arrive at an effective gross income of \$675,984. The appraiser subtracted \$214,556 for total operating expenses, including reimbursable expenses of insurance, repairs/maintenance, and utilities and non-reimbursable administrative expenses, management fees, and replacement reserves, to arrive at a net operating income of \$461,428. The appraiser next calculated a loaded capitalization rate of 11.69% based on the direct capitalization and band of investments methods to calculate a value for the subject of \$3,950,000, rounded, under the income approach.

The appraiser gave the sales comparison and income approaches equal weight in opining a market value for the subject of \$3,950,000 as of January 1, 2019. The appraiser did not develop the cost approach due to the subject being an older building and this approach being less reliable for older properties.

Based on this evidence the appellant requested a reduction in the subject's assessment to reflect the appraised value conclusion.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$1,573,889. The subject's assessment reflects a market value of \$4,723,556 or \$47.50 per square foot of living area, land included, when using the 2020 three year average median level of assessment for Kane County of 33.32% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on thirteen comparable sales, including a grid analysis of four comparable sales, a grid analysis of appraisal sale #1, and maps depicting the locations of these comparables in relation to the subject. The board of review also submitted a grid analysis of an additional eight comparable sales.² The board of review's comparables are located in Aurora, North Aurora, Elgin, Batavia, and Huntley. The parcels range in size from 4.23 to 16.45 acres of land area and are improved with 1-story industrial buildings ranging in size from 50,018 to 174,300 square feet of building area. Four buildings have concrete block, masonry, brick, or steel exterior construction. The buildings were constructed from 1991 to 2019. Six comparables have from 3,370 to 14,000 square feet, or from 2.51% to 12.29%, of office area. Eight comparables have ceiling heights ranging from 24 to 32 feet, from 3 to 8 loading docks, and from one to four drive-in doors. The comparables sold from May 2017 to April 2021 for prices ranging from \$4,600,000 to \$12,500,000 or from \$49.85 to \$249.91 per square foot of building area, including land.

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

² The Board notes that the subject property identified on this second grid analysis is not the property that is the subject of this appeal. Nonetheless, the Board shall consider the comparables presented in this grid analysis, which are renumbered as comparables #6 through #13.

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In written rebuttal, the appellant argued the appellant's appraisal is the best evidence of the subject's market value when compared to the board of review's unadjusted sales, which lack details regarding the features of these comparables and lack a capitalization analysis. The appellant asserted the board of review's comparable #1 has features the subject lacks; the board of review's comparable #2 is an older building than the subject and has features the subject lacks; the board of review's comparable #3 is a 50% smaller building than the subject and is a newer building than the subject with a superior location to the subject; the board of review's comparable #4 is a 16% smaller building than the subject and is located more than three miles from the subject; and the board of review's comparable #5 has more parking than the subject and is located more than five miles from the subject.³

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant presented an appraisal and the board of review presented thirteen comparable sales in support of their respective positions before the Board. The Board finds the best evidence of market value to be the appraisal submitted by the appellant with a value conclusion of \$3,950,000 as of January 1, 2019 for the subject property. The appraisal was completed using similar properties to the subject as comparables for both the income and sales comparison approaches in estimating the subject's market value. The appraiser made appropriate adjustments to the comparable properties, which further advances the credibility of the report.

The subject's assessment reflects a market value of \$4,723,556 or \$47.50 per square foot of building area, including land, which is above the appraised value. The Board gives less weight to the board of review's submission. The board of review did not challenge the appellant's appraisal but rather presented unadjusted comparable sales, five of which lack descriptive details. The remaining eight comparables have varying degrees of similarity to the subject. These comparables have higher ceiling heights than the subject, five comparables are substantially larger buildings than the subject, five comparables are much newer buildings than the subject, five comparables have much larger sites than the subject, all of which would require substantial adjustments to make them more equivalent to the subject.

Based on this record, the Board finds the subject property had a market value of \$3,950,000 as of the assessment date at issue. Since market value has been established the 2020 three year average median level of assessments for Kane County of 33.32% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

³ The Board notes that the appellant has mistakenly identified appraisal sale #1 as the board of review's comparable #5. This comparable is presented in a grid analysis entitled "Taxpayer Sale Comps."

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APPELLANT:	<u>Aamir Bandukda</u>
DOCKET NUMBER:	<u>22-02554.001-I-1</u>
DATE DECIDED:	<u>October 2023</u>
COUNTY:	<u>Kane</u>
RESULT:	<u>No Change</u>

The subject property consists of a one-story, industrial condominium unit of tilt-up masonry exterior construction with 4,473 square feet of building area. The unit was constructed in 2000 and contains approximately 1,067 square feet of heated office area and 3,406 square feet of warehouse area. Features of the property include 16 foot ceiling height, interior sprinkler system, and an asphalt parking lot. The property has a 13,099 square foot site or a 2.9:1 land-to-building ratio and is located in St. Charles, St. Charles Township, Kane 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 June 30, 2020 for a price of \$250,000. The appellant completed Section IV – Recent Sale Data disclosing the transaction was not between family members or related corporations, that the subject was sold with help from a Realtor and was advertised in the Multiple Listing Service (MLS) for a period of approximately one year. The appellant submitted copies of the settlement statement, purchase contract and the PTAX-203 Illinois Real Estate Transfer Declaration associated with the purchase of the subject property. The settlement statement reports commissions were paid to SVN Landmark and Keystone Real Estate, LLC. Paragraph 11.10 Commission/Finders Fee, on page 12 of the purchase contract, further depicts commissions to be paid to “Brian Haney of SVN Landmark Commercial Real Estate, LLC who shall pay a cooperating broker commission to Aamir Bandukda of Keystone Real Estate, LLC.” The appellant submitted a copy of the marketing brochure for the subject property which lists Brian Haney as an Advisor for SVN Landmark Commercial Real Estate rather than a licensed Realtor. The appellant also submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration which reiterated the sale date and price and disclosed the property was not advertised for sale. Based on this evidence, the appellant requested the subject’s assessment be reduced to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$121,126 which reflects a market value of \$363,414 or \$81.25 per square foot of building area, land included, when using the statutory level of assessment of 33.33%.

In response, the board of review, through the St. Charles Township Assessor’s Office, submitted a written brief, seven comparable sales and Parcel Summary sheets for the subject and each of the board of review comparable sales along with an aerial map and property details for the subject property from the assessor’s website. In its written brief, the assessor contended the property was before the board of review in 2020 and 2021 where the assessment for the property was ruled to total \$113,305 and \$115,457 respectively. For 2022 the subject’s total assessed value was increased only through application of the equalization factor for St. Charles Township of 1.0491. The assessor asserted the subject property “was never listed on the open market.”

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The seven comparables submitted by the board of review have sites ranging in size from 5,410 to 50,733 square feet of land area or land-to-building ratios ranging from 2.6:1 to 5.3:1. The sites are improved with one-story buildings ranging in size from 1,500 to 10,380 square feet of building area that were built from 1975 to 2006. The comparables have brick or tilt-up masonry construction, a mixture of both office and warehouse space, ceiling heights ranging from 16 to 24 feet and an interior sprinkler system. The properties sold from January 2017 to October 2020 for prices ranging from \$120,000 to \$750,000 or from \$59.90 to \$111.40 per square foot of building area, land included.

The subject's Parcel Information Report disclosed a sale date for the subject property of June 16, 2020 for a price of \$250,000 with a transfer via Warranty Deed. The St. Charles Assessor General Parcel Information sheet describes the subject's purchase transaction as "Property Not advertised for sale" with no supporting documentation submitted. Pursuant to Section 1910.90(i), the Property Tax Appeal Board takes official notice the subject property was the subject of a decision before this Board for the 2020 and 2021 tax years under docket numbers 20-01837 and 21-05656. In those appeals, the Property Tax Appeal Board found the subject property had not been advertised for sale on the open market.

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

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.

The Board gives little weight to the sale of the subject property. The PTAX-203 submitted by the appellant disclosed the property had not been advertised for sale. The purchase contract identified the appellant, Aamir Bandukda, as receiving a "cooperating broker commission" thus the buyer was also acting as an agent. These conditions call into question the arm's length nature of the June 2020 sale. Additionally, the Board takes notice the Property Tax Appeal Board issued decisions under docket numbers 20-01837 and 21-05656 in which the subject's June 2020 sale was determined to lack the elements of an arm's length transaction. Furthermore, the appellant did not refute the board of review's comment indicating the June 2020 sale of the subject property was not an advertised sale.

The board of review submitted seven comparable sales for the Board's consideration. The Board gives less weight to comparables #1 through #4 due to differences with the subject in gross building area and sale dates that are less proximate to the January 1, 2022 assessment date than other properties in the record. The Board finds the best evidence of market value in the record to be board of review comparables #5, #6 and #7 which sold closer to the assessment date at issue and are more similar to the subject in location, land-to-building ratio, construction style and other features. These best comparables sold for prices ranging from \$230,000 to \$665,000 or from \$92.00 to \$111.40 per square foot of building area, including land. The subject's assessment

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reflects a market value of \$363,414 or \$81.25 per square foot of building area, including land, which falls within the range established by the best comparable sales in this record on an overall market value basis and below the range on a per square foot basis. Based on this record and in light of the comparable sales data, the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	Marathon Manufacturing, Inc.
DOCKET NUMBER:	20-08372.001-I-1
DATE DECIDED:	June 2023
COUNTY:	DuPage
RESULT:	No Change

The subject property consists of a one-story industrial building of masonry exterior construction with 16,940 square feet of building area. The building was constructed in 1977. Features of the building include 4,300 square feet of office area, constituting 25.38% of the total building area, an exterior building height of 16 feet, and two overhead doors.¹ The property has a 29,500 square foot site resulting in a land-to-building ratio of 1.74:1 and is located in Addison, Addison Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal.² In support of this argument the appellant submitted information on four comparable sales located in Addison and Bensenville. The comparables are improved with one-story industrial buildings of brick exterior construction ranging in size from 21,658 to 39,560 square feet of building area. The buildings were constructed from 1963 to 1970 with comparable #4 having additions built in 1969 and 1971. Each building has from 1,260 to 8,505 square feet of office area, constituting from 6% to 31% of the total building area, ceiling heights ranging from 12 to 20 feet, two to six docks, and one to six drive-ins. The parcels range in size from 35,600 to 787,500 square feet of land area resulting in land-to-building ratios from 1.29:1 to 19.91:1. The comparables sold from July 2017 to September 2019 for prices ranging from \$862,562 to \$1,600,000 or from \$25.00 to \$46.91 per square foot of living area, including land.

The appellant also submitted a Restricted Appraisal Report concluding a market value for the subject of \$680,000 as of January 1, 2020 based on the sales comparison and income capitalization approaches. The report was prepared by Shawn Schneider, a certified general real estate appraiser, and identifies the appellant as the intended user. The report states: “This Restricted Appraisal Report is to be used solely by the client and no unrelated third party. It should clearly be understood that the opinions and conclusions set forth in this report may not be understood properly without additional information in the appraiser’s work file.” Moreover, “[t]his Restricted Appraisal has been developed for the intended user to decide whether or not to proceed with an Appraisal Report which would be used as evidence in a real estate tax appeal.” The appraiser further explained that this report states the appraiser’s conclusions but is not a complete appraisal report, “which requires full documentation and verification of the data.”

Based on this evidence the appellant requested a reduction in the subject’s assessment to \$226,644, which would reflect a market value of \$680,000 or \$40.14 per square feet of building area, including land, when applying the statutory level of assessment of 33.33%.

¹ Additional details regarding the subject property not reported by the appellant are found in the subject’s property record card presented by the board of review and were not refuted by the appellant in written rebuttal.

² The parties agreed to waive their requests for a hearing and to have a decision issued based on the written record.

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The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$276,860. The subject's assessment reflects a market value of \$828,922 or \$48.93 per square foot of building area, land included, when using the 2020 three year average median level of assessment for DuPage County of 33.40% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on ten comparable sales.³ The comparables are improved with one-story industrial buildings of masonry or masonry and metal exterior construction ranging in size from 8,260 to 22,544 square feet of building area. The buildings range in age/effective age from 1964 to 1986. Each building has office area ranging from 5.34% to 12.86% of total building area and exterior building heights ranging from 12 to 21 feet. The parcels range in size from 15,795 to 80,000 square feet of land area resulting in land-to-building ratios from 1.73:1 to 3.55:1. The comparables sold from February 2017 to April 2020 for prices ranging from \$600,000 to \$1,312,500 or from \$61.70 to \$83.43 per square foot of building area, including land.

The board of review submitted a brief contending that the subject's assessment increased from 2019 to 2020 tax years only by the 2020 equalization factor of 1.04.

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

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.

The appellant presented four comparable sales and a restricted appraisal report, and the board of review presented ten comparables sales in support of their respective positions before the Board.

The Board gives less weight to the appellant's restricted appraisal report, which specifically states that the conclusions contained therein cannot be understood without information in the appraiser's work file. Furthermore, the report is restricted to use by the appellant and cannot be used by any unrelated third party, such as this Board, to determine the correct assessment of the subject property.

The Board finds the best evidence of market value to be the board of review's comparables #1, #2, and #8, which are similar to the subject in building size, age, location, site size, and some features. The most similar comparables sold for prices ranging from \$725,000 to \$1,025,000 or from \$61.70 to \$71.98 per square foot of building area, including land. The subject's assessment reflects a market value of \$828,922 or \$48.93 per square foot of living area, including land, which is within

³ The board of review presented its comparables in two grid analysis, with one duplicate comparable, which are renumbered from #1 through #5 and #1 through #6 to #1 through #10.

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the range established by the best comparable sales in terms of total market value and below the range on a price per square foot basis. The Board gave less weight to the appellant's comparables and the board of review's comparables #3 through #7, #9, and #10, due to substantial differences from the subject in building size and/or site size and/or which sold less proximate in time to the assessment date than other comparables in this record. Based on this evidence and after considering appropriate adjustments to the best comparables for differences from the subject, the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	Petroleum Fuel & Terminal Co.
DOCKET NUMBER:	20-07042.001-I-1
DATE DECIDED:	June 2023
COUNTY:	St. Clair
RESULT:	Reduction

The subject property consists of a 27,420 square foot warehouse building of concrete block exterior construction that was constructed in 1950. The building has a ceiling height of approximately 14 feet in the warehouse areas, four overhead doors, and fourteen sliding doors. The property also features two above-ground fuel storage tanks and a partially torn down filling station. The property has an 854,995 square foot, or 19.62 acre, site and is located in East St. Louis, East St. Louis Township, St. Clair County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$860,000 as of January 1, 2020. The appraisal was prepared by Lance D. Lunte, MAI, a certified general real estate appraiser, for ad valorem tax purposes.

The appraiser explained the subject's site size is 19.62 acres of land area, following the most recent acquisitions by the Illinois Department of Transportation of 0.0728 of an acre in 2013 and 0.2536 of an acre in 2014.

The appraiser stated the subject building has deferred maintenance items, such as missing roof areas, deteriorated or missing downspouts and gutters, broken or missing windows, deteriorating wood fascia and soffits, and deteriorated overhead and sliding wood doors. The appraiser asserted the building was designed for 10% office use, but the office areas are in poor condition as a result of the deferred maintenance issues and could not presently support an office use. The appraiser further asserted all electrical wiring, plumbing, and HVAC systems have been removed or are non-functional. The appraiser stated the subject property has not been used for 20 years and the fuel storage tanks at the end of their economic life and the partially torn down filling station did not add to the subject's value.

The appraiser did not develop the income approach because the subject is not currently leased and any lease of the subject would require demolish of the existing improvements and redevelopment for an alternative use of a lessee.

Under the cost approach, the appraiser selected seven land sale comparables ranging in size from 348,480 to 1,966,320 square feet of land area. The comparables sold from July 2016 to August 2019 for prices ranging from \$240,000 to \$2,700,000 or from \$0.66 to \$2.07 per square foot of land area. The appraiser made adjustments to the comparables for differences from the subject, such as location, site size, and other characteristics, to arrive at adjusted sale prices ranging from \$0.56 to \$1.31 per square foot of land area. Based on the foregoing, the appraiser concluded a land value for the subject of \$0.93 per square foot of land area or \$795,000 rounded.

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The appraiser next calculated the replacement cost new of the subject building using the Marshall & Swift cost rates for a distribution warehouse to arrive at a replacement cost new of \$1,314,875 or \$48.27 per square foot of building area. The appraiser deducted depreciation of 96% or \$1,262,280 from the replacement cost new to calculate a depreciated value for the building of \$52,595. The appraiser then added the value of the depreciated other improvements of \$5,826, the land value of \$795,000, and the depreciated building value of \$52,595 to conclude a value for the subject under the cost approach of \$854,000 rounded.

Under the sales comparison approach, the appraiser selected five comparable sales of industrial properties. The parcels range in size from 2.30 to 19.05 acres of land area and are improved with warehouse buildings ranging in size from 9,120 to 34,379 square feet of building area. The buildings were constructed from 1967 to 1995 and are in the same or better condition than the subject. Each building features 10 to 24 foot ceiling heights and four comparables have from four to seven drive-in overhead doors. One comparable has a 5,000 square foot carport. The comparables sold from March 2016 to February 2020 for prices ranging from \$100,800 to \$955,000 or from \$8.40 to \$27.78 per square foot of building area, including land. The appraiser made adjustments to the comparables for differences from the subject, such as location, site size, building size, quality, age, condition, and utility, to arrive at adjusted sale prices ranging from \$30.57 to \$36.67 per square foot of building area, including land. Based on the foregoing, the appraiser concluded a market value for the subject under the sales comparison approach of \$32.00 per square foot of building area, including land, or \$872,000 rounded.

In reconciliation, the appraiser gave the equal weight to the cost and sales comparison approaches to opine a market value for the subject of \$860,000 as of January 1, 2020.

The appellant also submitted a brief contending that the appellant and the county dispute the subject's site size. The appellant explained that the appraiser relied on a survey of the subject showing 19.62 acres whereas the subject's property record card shows 24.5418 acres.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value conclusion.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$357,389. The subject's assessment reflects a market value of \$1,097,295 or \$40.02 per square foot of living area, land included, when using the 2020 three year average median level of assessment for St. Clair County of 32.57% as determined by the Illinois Department of Revenue.

The board of review asserted the subject's site size is correct as 4.16 acres are located on the other side of the street and should be included in the total acreage. The board of review presented a parcel map showing 19.69 acres on one side of North B Street and 4.16 on the other side of the street. The board of review offered to stipulate to a total assessment of \$344,465.

In response, the appellant rejected the board of review's offer. The appellant agreed that the 4.16 acres is part of the subject property but contended that the total site size is 19.62 acres.

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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 met this burden of proof and a reduction in the subject's assessment is warranted.

The only evidence of market value in this record is the appraisal presented by the appellant. The appraiser selected similar comparables and made appropriate adjustments to the comparables in concluding a land value for the subject under the cost approach and a market value for the subject under the sales comparison approach. Based on an inspection of the subject property, the appraiser made a credible conclusion that the fuel storage tanks, office area, and filling station do not add value to the subject property. Based on the foregoing, the Board finds the appraisal states a credible and reliable conclusion of value for the subject property.

The Board notes that the parties dispute whether the subject includes an additional approximately five acres of land area. The Board finds the appraisal presents a more credible calculation of the subject's size. The appraiser researched the history of the subject parcel and explained the most recent changes to the subject's site size, whereas the board of review only presented a parcel map without supportive evidence regarding how and when this map was developed and how it has been adjusted for the transfers to the Illinois Department of Transportation.

The Board finds the subject property had a market value of \$860,000 as of the assessment date at issue. Since market value has been established the 2020 three year average median level of assessments for St. Clair County of 32.57% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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*[Items Contained in Italics Indicate Arguments or
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Printed on recycled paper - soy-based ink
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(25 copies - 12/24) PO#2250076