State of Illinois

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

DECIDED BY THE BOARD

During Calendar Year 2024

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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:
www.ptab.illinois.gov

State of Illinois
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2024 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.

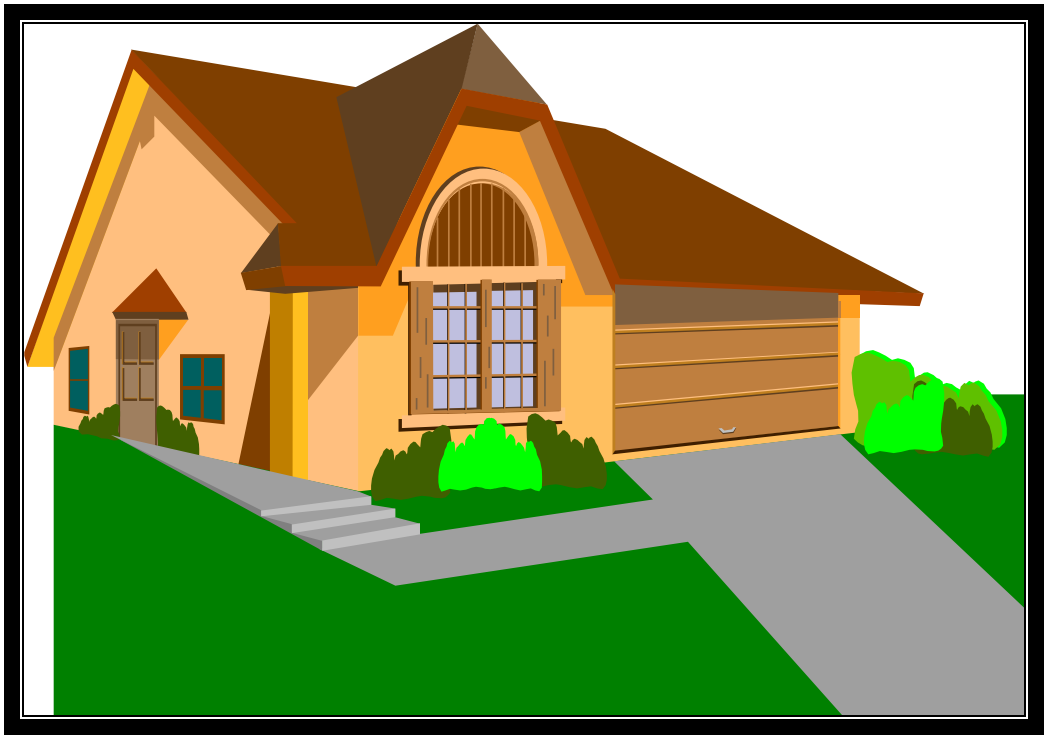
The reader should also note that Property Tax Appeal Board appeals are docketed according to the particular appeal form filed by the appellant rather than on the basis of the kind of property that is the subject matter of the appeal. Thus, a property that is actually an income producing or commercial 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.

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2024 RESIDENTIAL DECISIONS



PROPERTY TAX APPEAL BOARD
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2024 RESIDENTIAL CHAPTER

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APPELLANT:	**1516-North Western Condo Association**
DOCKET NUMBER:	**20-27162.001-R-2 thru 20-27162.008-R-2**
DATE DECIDED:	**June 2024**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property consists of eight condominium units within a one-year-old, multi-story, eight-unit condominium building located in Chicago, West Township, Cook County and is classified as a class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation and a contention of law as the bases of appeal. In support of the valuation argument, the appellant included sales information on all eight subject units. These units sold from March to May 2019 for prices ranging from $479,900 to $605,500. The appellant adjusted this value by 10% to account for personal property to arrive at adjusted sale prices. These values were then divided by the percentage of ownership for each unit to arrive at an assessed value for the building of $375,560. The appellant submitted a printout of these sales and an argument that the units contained personal property that the board of review would normally deduct for.

The appellant also made a contention of law argument in which the appellant argued that Covid-19 adjustments were given by the assessor and applied neighborhood wide to all 2019 final residential values, but that the subject property did not receive this adjustment. The appellant argued that failure to apply this reduction to the subject while applying it to other properties violates the equal protection clause in the U.S. Constitution and the uniformity of taxation clause in the Illinois Constitution. The appellant submitted *A.F.Moore & Associates, Inc., v. Pappas,* 974 F.3rd 836 (7th Cir. 2020) which cited caselaw stating "The equal protection clause entitles owners of similarly situated property to roughly equal tax treatment." *Allegheny Pittsburgh Coal Co. v. Cty. Comm'n*, 488 U.S. 336-46 (1989).

In support of this argument, the appellant submitted a copy of what appears to be a May 2020 memorandum from the Cook County Chief Deputy Assessor to the Cook County Assessor titled "Recommended Framework for Calculating Adjustments to Estimated Residential Property Values in Response to Covid-19." This document included sections titled: Summary; Background; Methodology Outline; Critical Assumptions; Higher Unemployment is Associated with Lower Housing Prices; Covid-19 has Increased Unemployment; Employment by Industry varies Across Cook County; Covid-19 impacts Tract-Level Labor Markets; Covid-19 will Impact Tract-Level Housing Values Differently; Additional Considerations in Re-valuing Residential Property; and Final Results.

In addition, the appellant argues that the sales ratio study conducted by the Illinois Department of Revenue indicates an 8.33% three-year median level of assessment for Cook County that should be applied to each subject unit's sale. The appellant included the Illinois Department of Revenue press release announcing the 2020 Cook County tentative multiplier.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's assessment of $419,592. The subject's assessment reflects a market value for all the appealed units of $4,195,920 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 listed the sales of all eight units under appeal. These dates and sales prices are the same as listed by the appellant. The board of review totaled the sale prices to arrive at a value for the building of $4,195,100. This value was then multiplied by each percentage of ownership to arrive at market values/assessments for each unit.

Conclusion of Law

The appellant argued a reduction in the subject's assessment 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 distinguishes between a request for relief just because the pandemic occurred ("COVID Relief") and a request based on the pandemic's effect on market conditions, or the income-producing capacity of a given property. The former would only require the appellant to show that the pandemic occurred, not that the pandemic affected or contributed to changes in the relevant market or other factors related to the property's assessment. The latter would require the appellant to meet its burden to provide substantive evidence or legal argument sufficient to challenge the property's assessment.

As an administrative agency, the Property Tax Appeal Board only has the authority that the General Assembly confers on it by statute. *Spiel v. Property Tax Appeal Bd.*, 309 Ill. App. 3d 373, 378 (2d Dist. 1999). Consequently, to the extent that the Board acts outside its statutory authority, it acts without jurisdiction. See *Bd. of Educ. of City of Chicago v. Bd. of Trustees of Pub. Sch. Teachers' Pension & Ret. Fund of Chicago*, 395 Ill. App. 3d 735, 739–40 (1st Dist. 2009). The Board has no statutory authority to reduce assessments solely because the pandemic occurred (i.e., to grant "COVID Relief"). However, in the instant appeal, the appellant argued that it would violate the appellant's equal protection rights and uniformity of taxation to deny Covid-19 relief to the appellant.

The Board finds that the appellant's reliance on *A.F.Moore & Associates, Inc., v. Pappas* is misplaced. The issue before the court in that matter was one of jurisdiction and that the court assumed the allegations in the complaint as true. 974 F.3rd 836 (7th Cir. 2020). In the instant appeal, the appellant is asking the Board to grant a reduction to the subject's assessment based on the evidence submitted.

The Board finds the appellant did submit some evidence to show that the Cook County Assessor analyzed the effects of unemployment on the market; however, there was no foundation laid for

this document or proof that it was utilized by the assessor in reducing assessments. In addition, the appellant failed to show that each property within the subject's township received this reduction but for the subject units and the amount of the reduction applied. Merely asserting that it was a certain percentage reduction through a chart that lacks foundation is inadequate.

In addition, the Board finds the mere submission of the Illinois Department of Revenue's 2020 Cook County Tentative Multiplier (IDOR document) is insufficient to establish the use of a median level of assessment. The Courts have ruled that the parties need to submit not only this IDOR document but also the mass of supporting documentation that developed the summary findings within the IDOR document. *Cook County Bd. of Review v. Property Tax Appeal Board*, *(Bosch),* 339 Ill. App. 3d 529 (1st Dist. 2002). The Board is prevented from granting relief based on evidence that was not presented before it to support a constitutional uniformity challenge. *Id at 538*. Therefore, the Board gives the IDOR document alone no weight.

The taxpayer also contends overvaluation as the basis of the appeal. 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 sales of all eight units under appeal. These units sold from March to May 2019 for prices ranging from $479,900 to $605,500. The subject's current assessments reflect market values in line with the value as established by the sales. Therefore, the Board finds the appellant failed to show by a preponderance of the evidence that the subject property was overvalued, and a reduction is not justified.

APPELLANT:	**Tom Basmajian**
DOCKET NUMBER:	**19-53463.001-R-1**
DATE DECIDED:	**May 2024**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property consists of a 10,620 square foot parcel of land improved with a 66-year-old, one-story, frame, single-family dwelling containing 1,344 square feet of building area. The property is located in Richton Park, Rich Township, Cook County and is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of the market value argument, appellant submitted a copy of the real estate purchase agreement which discloses that 90 separate parcels located in the Chicago area were sold for a price of $7,455,000. Exhibit A of this agreement lists each address and a parcel purchase price with the subject's price listed as $115,000. The appellant also submitted the warranty deed, closing statements, and an acknowledgement and receipt of settlement statement document. The petition discloses that the transfer was not between related parties, that the property was not advertised for sale, and that the property was sold due to a foreclosure and using a contract for deed.

The board of review submitted its "Board of Review Notes on Appeal." The subject's total assessment is $8,262 which reflects a market value of $82,620 or $61.47 per square foot of building area 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. The sales comparables are described as a one or one and one-half story, frame or frame and masonry, single-family dwellings containing from 1,092 to 1,335 square feet of building area. They sold from September 2017 to October 2019 for prices ranging from $52.61 to $116.30 per square foot of building area. The board of review also lists the sale of the subject in April 2016 for $54,200.

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 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 has 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 property 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. Thus, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price. Moreover, this purchase was part of a larger bulk sale with no evidence that the price established was more than just an allocated price. Therefore, the subject's sale price was given little weight and is not considered indicative of fair market value. The Board further finds that the subject's assessment reflects a market value that is within the range of the comparables submitted by the board of review. 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.

APPELLANT:	**Maryann Ericson**
DOCKET NUMBER:	**23-00555.001-R-1**
DATE DECIDED:	**September 2024**
COUNTY:	**Kane**
RESULT:	**Dismissed**

ANALYSIS

This matter comes before the Property Tax Appeal Board (PTAB) upon the Kane County board of Review's Motion to Dismiss and the *pro se* appellant's reply thereto.

Pleadings

To commence the instant "direct" appeal, the appellant sent the appeal to the Springfield office of the PTAB via U.S. Mail postmarked on January 17, 2024, along with Section V of the Residential Appeal petition completed with three sales of suggested comparable properties and supporting documentation. As part of page 1 of the petition, the appellant referenced receipt of a favorable decision issued by PTAB dated December 19, 2023.

On February 8, 2024, PTAB issued a letter along with an Incomplete Checklist in response to this new appeal filing. The PTAB requested documentation of jurisdiction, either a 2023 tax year board of review final decision or the referenced PTAB favorable final administrative decision. In response, the appellant submitted a copy of the tax year 2021 favorable Final Administrative Decision issued by PTAB on December 19, 2023, concerning this parcel, known as Docket No. 21-07857.001-R-1.

On March 7, 2024, the PTAB notified the Kane County Board of Review of this pending appeal with an extension of 90 days to file its response or seek additional time.

As fully explained below, the Property Tax Appeal Board finds that it does not have jurisdiction over this appeal.

Argument

After being notified of this appeal, the board of review requested dismissal of this appeal by motion filed on April 26, 2024. Kane County Board of Review contends that the PTAB has no jurisdiction over this direct appeal pursuant to Section 16-185 of the Illinois Property Tax Code (35 ILCS 200/16-185). The board of review asserted that the appellant did not file an appeal with the Kane County Board of Review for the 2023 assessment year, the start of a new general assessment cycle for the property. Furthermore, in light of the new assessment cycle, the board of review relies upon its interpretation of Section 16-185 that the phrase "**for the subsequent year or years of the same general assessment period**" [emphasis in the original pleading] prohibits the filing of any 2023 appeal directly to the PTAB within 30 days of the issuance of any favorable prior tax year decision. In other words, the board of review argued that the appellant did not receive "a decision lowering the assessment [of the subject] parcel in a prior year within the same general assessment period" as tax year 2023 [emphasis added]. It is the board of review's position that the appellant in this appeal failed to exhaust administrative remedies by not timely filing an appeal for tax year

2023 with the Kane County Board of Review as referenced in Section 16-160 (35 ILCS 200/16-160). Consequently, the board of review requested that this 2023 tax year appeal be dismissed because it was inappropriately filed from the issuance of a favorable [prior assessment cycle] decision of the PTAB.

In response, the appellant argued that the board of review's motion to dismiss should be denied. The appellant contended that Section 16-185 of the Property Tax Code permits this direct appeal to the PTAB because the time for filing a 2023 tax year appeal with the Kane County Board of Review had expired by the time that the PTAB Final Administrative Decision was issued on December 19, 2023.

After reviewing the record and considering the arguments of the parties the Property Tax Appeal Board finds it does not have jurisdiction over the appeal.

Conclusion of Law

The record in this appeal establishes that a Final Administrative Decision was issued by the PTAB lowering the assessment of the subject property for the 2021 tax year and the appellant's tax year 2023 Residential Appeal petition was postmarked within 30 days of that decision. Furthermore, as stated by the appellant in its response to the motion, the time for the appellant to file a tax year 2023 appeal with the Kane County Board of Review had expired when the 2021 tax year decision of the PTAB was received by the appellant.

As currently enacted, Section 16-185 of the Property Tax Code provides in relevant part as follows:

> If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review or board of appeals or after adjournment of the session of the board of review or board of appeals at which assessments for the **subsequent year** or years of the same general assessment period, as provided in Sections 9-215 through 9-225, are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for **such subsequent year** or years directly to the Property Tax Appeal Board.

35 ILCS 200/16-185 (emphasis added). Section 16-185 was amended by Public Act 100-0216, which became effective August 18, 2017. Prior to the enactment of Public Act 100-0216, Section 16-185 permitted only direct appeals for the immediate subsequent tax year regardless of whether such tax year was within the same assessment period provided that the board of review was no longer accepting complaints or had adjourned for that subsequent year. Before this 2017 amendment, Section 16-185 provided in relevant part as follows:

> If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review or board of appeals or after adjournment of the session of the board of review or board of appeals at which assessments for the **subsequent year** are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax

> Appeal Board's decision, appeal the assessment for **the subsequent year** directly to the Property Tax Appeal Board.

35 ILCS 200/16-185 (prior to amendment by P.A. 100-0216, eff. Aug. 18, 2017) (emphasis added). Senator Morrison, one of the sponsors of the 2017 amendment to Section 16-185, explained "[t]he goal of this legislation is to make [the] PTAB appeal processes more taxpayer friendly and reduce the length of the process. Senate Bill 609 amend – the amendment provides that if the Property Tax Appeal Board lowers the assessment of a property, **a taxpayer may aggregate appeals of subsequent years' assessments** – that's a mouthful – **within the same general assessment period**. Currently, the taxpayer must file a separate appeal within thirty days after PTAB's date of decision for the prior year." State of Illinois 100th General Assembly, Regular Session Senate Transcript, 32nd Legislative Day 4/6/2017, at 29 (emphasis added). The legislative history is clear that the purpose of the amendment was to expand a taxpayer's appeal rights by permitting direct appeals of multiple tax years that are within the same assessment period.

Thus, at all times relevant to the provisions of the Property Tax Code, a taxpayer has had the ability to file a direct appeal to the PTAB for the immediate succeeding tax year when the county board of review is no longer accepting complaints or has adjourned for that tax year regardless of whether that year is within the same general assessment period. However, in this instance, the appellant has relied upon a tax year 2021 favorable decision of the PTAB to file a tax year 2023 appeal, which is *not an immediate succeeding tax year*, even though the county board of review was no longer accepting complaints or had adjourned for 2023.[1] The taxpayer must satisfy two requirements: (1) file for an immediate succeeding tax year and (2) the board of review is no longer accepting appeals or has adjourned for the year being appealed.

As the Board finds that the 2023 tax year is not the immediate succeeding tax year from tax year 2021, pursuant to Section 16-185 of the Property Tax Code, whether amended in 2017 or not, the Property Tax Appeal Board finds that it lacks jurisdiction over this 2023 tax year appeal which was filed as a direct appeal to the PTAB following a 2021 tax year Final Administrative Decision of the PTAB.

Therefore, based on this record, the Property Tax Appeal Board **denies** the board of review's motion to dismiss as it is based upon a false legal premise. However, since the appellant filed this 2023 tax year appeal from a "non-immediately succeeding" favorable tax year 2021 decision of the Property Tax Appeal Board, the appeal is **dismissed** based upon the statutory violation in the filing of this appeal. (35 ILCS 200/16-185)

[1] The Property Tax Appeal Board further recognizes that the appellant has a pending 2022 tax year appeal known as Docket No. 22-04645.001-R-1. If a favorable decision is issued in the pending 2022 tax year appeal, the appellant will be able to file for the *subsequent tax year of the quadrennial assessment cycle* that commenced with the 2023 tax year as long as the board of review has adjourned/is not accepting appeals for that tax year.

APPELLANT:	**Peter Gold**
DOCKET NUMBER:	**23-00223.001-R-1**
DATE DECIDED:	**November 2024**
COUNTY:	**Lake**
RESULT:	**Reduction**

The parties appeared before the Property Tax Appeal Board on October 22, 2024 for a hearing at the Lake County Board of Review Offices in Waukegan pursuant to prior written notice dated October 3, 2024. Appearing were the homeowners Mary Brandes and Peter Gold and on behalf of the Lake County Board of Review was Jack Perry, Mass Appraisal Specialist for the Lake County Board of Review.

The subject property consists of a 2-story dwelling of frame exterior construction with 2,728 square feet of living area that was constructed in 1985. Features of the home include an unfinished basement, central air conditioning, one fireplace and a 576 square foot garage. The property has an approximately 40,109 square foot site and is located in Libertyville, Libertyville Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted written comments, a Comparables Square Foot Building Value table and two grids with information on four comparable sales located within 0.80 of a mile from the subject property. The comparables have sites that range in size from 19,959 to 103,297 square feet of land area and are improved with 2-story dwellings of frame or brick and frame exterior construction ranging in size from 2,877 to 3,443 square feet of living area. The dwellings were built from 1955 to 1984 and have effective ages ranging from 1982 to 1989. Three comparables have an unfinished basement and one comparable lacks a basement foundation. Each dwelling has central air conditioning and a garage ranging in size from 511 to 1,908 square feet of building area. Three homes each have one fireplace. Comparable #4 also features a tennis court.[1] The properties sold from January 2020 to June 2023 for prices ranging from $432,500 to $550,000 or from $132.15 to $163.16 per square foot of living area, land included.

Ms. Brandes testified that all of the appellant comparables are located in areas that have a similar traffic influence as does the subject. Ms. Brandes explained that the subject's West Oak Spring Road is located between two busy streets and is used as a through street. This results in higher traffic counts with vehicles traveling at higher rates of speed directly in front of the subject property. The appellant asserted the comparables submitted were selected primarily based on a traffic influence similar to the subject. Ms. Brandes opined the subject's busy road location affects value. Based on this evidence, the appellant requested the subject's total assessment be reduced to $149,992 which reflects a market value of $450,021 or $164.96 per square foot of living area, land included, when applying the statutory level of assessment of 33.33%.

[1] The appellant submitted a second grid of its comparable properties which disclosed comparable #4 to have a tennis court amenity.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $189,295. The subject's assessment reflects a market value of $567,942 or $208.19 per square foot of living area, land included, when using the statutory level of assessment of 33.33%.[2]

In support of its contention of the correct assessment the board of review submitted information on three comparable sales located within 0.59 of a mile from the subject property. The comparables have sites that range in size from 23,715 to 66,913 square feet of land area and are improved with 2-story dwellings of frame exterior construction ranging in size from 2,556 to 2,668 square feet of living area. The homes were built from 1967 or 1977. Each comparable has an unfinished basement, central air conditioning, one or three fireplaces and a garage ranging in size from 608 to 660 square feet of building area. The properties sold from October 2022 to July 2023 for prices ranging from $635,000 to $855,000 or from $238.01 to $321.79 per square foot of living area, land included. Based on this evidence, the board of review requested the subject's assessment be confirmed.

In written rebuttal the appellant asserted neither the Libertyville Township Assessor nor Lake County Board of Review addressed the manner in which the appellant arrived at their assessment request, which is based on the per square foot improvement assessment of its comparable sales. The appellant raised an issue regarding inconsistent directions from Libertyville Township with respect to comparable sale selection criteria. The appellant asserted the township provided guidelines indicating only homes with the same style code as the subject that sold prior to the lien date at issue are acceptable. However, contrary to their own guidelines, Libertyville Township Assessor selected comparable properties that sold after the January 1, 2023 lien date and are a different style code than the subject. In support of this assertion, the appellant moved to submit a copy of the Libertyville Township Assessor's comparable sales grid, Exhibit 1, which was accepted into the record without objection from the board of review. The Board finds that three of these comparables are a different style than the subject property while two sold after January 1, 2023.

With respect to the board of review's comparable properties, the appellant argued comparable #1 is located on a cul-de-sac with no through traffic, and comparables #2 and #3 are located in a different neighborhood and that neither property has frontage on a busy street like the subject. Finally, the appellant noted board of review comparables #2 and #3 have a quality rating of "GD++" while the subject property has a quality rating of Good.

In response to the appellant's critiques, Mr. Perry asserted board of review comparable #3 is located adjacent to St. Mary's Road, a busy street. With respect to this assertion, the appellant countered that the property in question does not have frontage on a busy street like the subject. Mr. Perry also contended, without documentation, that appellant comparable #2 was sold in "as is" condition stating the information was found in its Multiple Listing Service sheet. The appellant objected to the board of review's unsupported contention, arguing the evidence to be hearsay.

[2] Procedural rule Sec. 1910.50(c)(1) provides that in all counties other than Cook, the three-year county wide assessment level as certified by the Department of Revenue will be considered. 86 Ill.Admin.Code Sec. 1910.50(c)(1). Prior to the drafting of this decision, the Department of Revenue has yet to publish figures for tax year 2023.

After reviewing the record evidence, the Board finds the appellant submitted two comparable grid analyses. In the second grid analysis the appellant's comparable #2 is shown as a qualified sale and not reported to be sold in "as is" condition. Therefore, the Board sustains the appellant's objection regarding the alleged condition of its comparable #2.

Under questioning by the hearing officer, Mr. Perry testified he did not dispute the appellant's description of traffic influences for either the subject or comparable properties. The appellant argued they looked at the PTAB website but were not sure they could submit different comparable sales than those selected using the township's criteria. As a result, the appellant submitted the same comparables for this PTAB appeal as were submitted at the board of review/township level.

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 it problematic that the Libertyville Township Assessor advised and provided selection criteria for the appellant's comparable properties, which was not refuted, and then proceeded to select its own comparable properties with a different set of criteria, which undermines the credibility of the assessor and board of review. The Board finds the Libertyville Township Assessor did not appear before this Board to testify in defense of its selected comparable sales and the subject's level of assessment. Furthermore, given the appellant's primary argument, that a high traffic influence negatively impacts the subject's market value, both the township and board of review failed to provide any comparable properties with a similar traffic influence to support the subject's assessment.

The parties submitted seven comparable sales for the Board's consideration. The Board gives little weight to each of the board of review comparables which have unrefuted superior residential locations when compared to the subject and where two are also located in a different neighborhood code than the subject property. The Board also gives less weight to appellant comparable #1 which lacks a basement foundation in contrast to the subject.

The Board finds the best evidence of market value to be appellant comparables #2, #3 and #4 which have an unrefuted similar traffic influence like the subject. These best comparables are also more similar to the subject in location, age/effective age, design and other features. However, these properties present varying degrees of similarity to the subject in site size, dwelling size, garage size and tennis court amenity, suggesting adjustments are needed to make these properties more equivalent to the subject. These best comparables sold from January 2020 to June 2023 for prices ranging from $432,500 to $550,000 or from $132.15 to $163.16 per square foot of living area, including land. The subject's assessment reflects a market value of $567,942 or $208.19 per square foot of living area, including land, which falls above the range established by the best comparable sales in this record. After considering appropriate adjustments to the best comparables

for differences from the subject and their date of sale, the Board finds the subject's assessment is excessive and a reduction in the subject's assessment, commensurate with the request, is warranted.

APPELLANT:	**Dolores Kohl**
DOCKET NUMBER:	**23-02978.001-R-3**
DATE DECIDED:	**November 2024**
COUNTY:	**Lake**
RESULT:	**No Change**

The subject property consists of a 2.5-story dwelling of brick exterior construction with 7,251 square feet of living area.[1] The dwelling was constructed in 1926 and has a chronological age of 97 years old. Features of the home include an unfinished basement, central air conditioning, eight fireplaces, an inground swimming pool and a 1,195 square foot 3-car garage. The subject's detached garage has finished area on the second floor including a kitchen and bathroom. The property has a 4.25-acre site situated on Lake Michigan and is located in Highland Park, Moraine Township, Lake 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 $3,800,000 as of January 1, 2023. The appraisal was prepared by Christopher McDonnell, a Certified Residential Real Estate Appraiser. The intended use of the appraisal report was to develop the retrospective fee simple market value of the subject property in support of an ad valorem tax appeal. The appraiser indicated the highest and best use of the subject property was its present use.

In estimating the market value of the subject property, the appraiser developed the sales comparison approach to value selecting four comparable sales located from 0.05 of a mile to 3.20 miles from the subject property. The comparables have lake front sites that range in size from 0.98 to 1.74-acres of land area and are improved with 1-story or 2-story dwellings of C3 quality construction ranging in size from 5,170 to 7,457 square feet of living area. The homes range in age from 20 to 63 years old. Each comparable has a basement, with three having finished area. Each dwelling has central air conditioning, one to six fireplaces, a 3-car garage and an inground swimming pool. Comparable #4 also features an indoor inground swimming pool and hot tub. Additional features include a pool house for comparable #1, comparable #2 has living area above the garage and comparable #4 has an indoor sport court. The comparables sold from May 2020 to June 2023 for prices of $3,530,000 or $4,500,000 or from $474.72 to $742.97 per square foot of living area, land included.

The appraiser described the subject interior to be in good condition, but very dated, noting the kitchen has older painted cabinetry and reported the subject property had no updates in the prior 15 years. Interior photographs of the subject property support the appraiser's description of the subject's interior condition. The appraiser stated the subject site is "approximately four acres with two acres being ravine property that is not useable." As a result, the appraiser opined the subject's two ravine acres did not contribute to value and opined may adversely affect value due to taxes, useability and safety. The appraiser further stated there is no market data to support an adjustment, either positive or negative for the subject's site size relative to the comparables.

[1] The Board finds the best description of the subject's dwelling size was found in the appellant's appraisal report which contained a sketch with dimensions for each floor of the subject property.

The appraiser adjusted the comparables for differences with the subject in condition, room count, dwelling size, basement features and other elements arrived at adjusted sale prices of the comparables ranging from $3,263,100 to $4,214,500 and an opinion of market value for the subject of $3,800,000. Based on this evidence, the appellant requested the subject's assessment be reduced to $1,400,000 which equates to a market value of $4,200,000 or $579.29 per square foot of living area, land included when applying the statutory assessment level of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $2,139,790. The subject's assessment reflects a market value of $6,420,012 or $885.40 per square foot of living area, land included, when using the statutory level of assessment of 33.33%.[2]

In support of its contention of the correct assessment the board of review submitted information on four comparables located within from 0.22 of a mile to 2.73 miles from the subject property. Board of review comparables #1 and #3 are the same properties as appraisal comparables #3 and #2, respectively.[3] The comparables have sites that range in size from 27,350 to 126,780 square feet or 0.63 to 2.91 acres of land area. The comparable sites are improved with 1-story or 2-story dwellings of wood siding, stone or brick exterior construction ranging in size from 4,120 to 6,030 square feet of living area. The homes range in age from 26 to 96 years old. Each comparable has a basement with finished area, central air conditioning, one or two fireplaces and a garage ranging in size from 460 to 911 square feet of building area. Comparables #1, #3 and #4 each have an inground swimming pool. The comparables sold from April 2020 to October 2022 for prices ranging from $3,360,000 to $3,841,145 or from $577.02 to $825.24 per square foot of living area, land included.

The board of review, through Moraine Township, submitted written comments asserting all lake front properties in Moraine Township have ravine property which provides access to and views of Lake Michigan. The board of review contended that home buyers pay a premium for lake front property, including the respective ravine area. The board of review critiqued the appraisal arguing no adjustment was made for the subject's larger site size relative to comparable properties. To document lake front site values, the board of review submitted a spreadsheet labeled Lake County Board of Review Land Comparison which includes information on five sales where no improvements are shown but where each property depicts a prior improvement to have been demolished. This table also provides a breakdown of each site's square footage disclosing buildable "table land" and "ravine/bluff land" area to support their assertion that lake front properties each have a ravine or bluff land component. The five land sales range in size from 42,997 to 156,620 square feet or 0.99 to 3.60 acres of land area. The land comparables sold from July 2020 to April 2022 for prices ranging from $2,323,000 to $6,000,000 or from $37.18 to $54.07

[2] Procedural rule Sec. 1910.50(c)(1) provides that in all counties other than Cook, the three-year county wide assessment level as certified by the Department of Revenue will be considered. 86 Ill.Admin.Code Sec. 1910.50(c)(1). Prior to the drafting of this decision, the Department of Revenue has yet to publish figures for tax year 2023.

[3] The description of basement amenities for board of review comparable #3/appraisal comparable #2 differ between the parties. The board of review indicates this property has 1,140 square feet of finished basement area while the appraisal depicts the dwelling to have an unfinished basement.

per square foot of land area. The subject has a land assessment of $1,523,306 that equates to a market value of $4,570,375 or $24.65 per square foot of land area.

The board of review noted the subject's appraised value of $3,800,000 falls below the indicated market value reflected by its land assessment. 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 appellant submitted an appraisal and the board of review submitted four comparable sales, two of which were also selected by the appraiser. In addition, the board of review submitted information on five comparable lake front land sales for the Board's consideration.

Initially, the Board finds it problematic the appraiser failed to adjust its comparables site size when compared to the subject particularly given the appraiser's statement contenting "[t]here is no market data to support an adjustment, either positive or negative" as well as the appraiser's opinion the subject's ravine area had little value or utility.

The board of review submitted evidence contradicting the appraiser, noting all lake front lots in Moraine Township feature either a ravine or bluff which provides access to Lake Michigan. The board of review also provided detailed information on five recent lake front land sales which sold for prices ranging from $37.18 to $54.07 per square foot of land area.

The subject has a land assessment of $1,523,306 which equates to a market value of $4,570,375 or $24.65 per square foot of land area. This indicated market value for the subject site falls well above the appraiser's opinion of market value for the subject of $3,800,000 and suggests the subject's highest and best use is not its present use as a 97 year old home. Given the appraiser failed to correctly value the subject property with its highest and best use, the Board gives little weight to the appraiser's opinion of value for the subject as presented in the appraisal.

The Board finds the best evidence of market value to be the board of review's five land comparables, demonstrating market demand for lake front residential sites. These comparables sold from July 2020 to April 2022 for prices ranging from $2,325,000 to $6,000,000 or from $37.18 to $54.07 per square foot of land area. The subject's land assessment reflects a market value of $4,570,375 or $24.65 per square foot of land area, which falls within the range established by the land comparables on an overall market value basis and below the range on a per square foot basis. After considering adjustments to the comparables for differences with the subject, the Board finds the subject property may be under assessed based on comparable land sales, however, since the board of review did not request an increase in assessment, the Board finds neither an increase nor a decrease in the subject's assessment is justified.

APPELLANT:	**L.A. Development Corp**
DOCKET NUMBER:	**20-47291.001-R-1**
DATE DECIDED:	**November 2024**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of a 3,000 square foot parcel of land that was improved on January 1, 2019 with a 125-year-old, one-story, frame, single-family dwelling. The property is located in Chicago, Lake Township, Cook County and is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on a contention of law. The appellant asserts that the subject was vacant from January 1, 2020 through August 16, 2020 and then demolished August 17, 2020. To support this claim, the appellant submitted an affidavit attesting that the subject was vacant then demolished, a vacancy affidavit, a demolition permit issued February 25, 2020, a letter from a construction company disclosing that demolition of the subject was completed on August 17, 2020, a demolition invoice, and black and white photographs of the subject when improved. The appellant argues that because of the demolition of the improvement, the subject's land and improvement assessment should be reduced. The appellant requests a reduction in the land assessment to $1,200 with no further explanation and a reduction in the improvement to $390.

The board of review submitted its "Board of Review Notes on Appeal" disclosing a total assessment of $7,584 which reflects a market value of $75,840 using the Cook County Real Estate Classification Ordinance level of assessment for class 2 property of 10%. In support of the current assessment, the board of review submitted three equity comparables.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation along with a contention of law concerning demolition of the original structure. Section 10-15 of the Illinois Administrative Procedure Act (5-lLCS 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant contends the subject was vacant prior to the demolition of the improvement. However, the Board finds the appellant failed to submit any evidence concerning the subject's land and that a reduction in the land assessment is not warranted. Moreover, the Board finds that the appellant failed to show that the improvement vacancy was based on any condition of the subject

or its uninhabitability. Therefore, a reduction based on the vacancy of the subject is not warranted. The appellant submitted evidence that the subject was demolished August 17, 2020. As to the appellant's claim for reduced assessment on the improvement due to its demolition, Section 9-160 of the Property Tax Code (35 ILCS 200/9-160) is relevant and provides in pertinent part:

> The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, . . . all improvements which were destroyed or removed. [Emphasis added.]

Section 9-180 of the Property Tax Code provides:

> 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 if 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. . . Computations for this Section shall be on the basis of a year of 365 days.

The appellant has submitted sufficient evidence to show that the subject property was demolished on August 17, 2020 and that the subject property is entitled to a diminution in assessed value after the demolition. Therefore, the Property Tax Appeal Board finds a pro rata reduction in the subject's improvement assessment is warranted on this record based on a year of 365 days.

APPELLANT:	**Edward & Debra Lechner**
DOCKET NUMBER:	**22-02976.001-R-1**
DATE DECIDED:	**March 2024**
COUNTY:	**Winnebago**
RESULT:	**No Change**

The subject property consists of a part 1-story and part 2-story dwelling of vinyl exterior construction with 2,643 square feet of living area. The dwelling was constructed in 1973. Features of the home include a crawl space foundation, a fireplace, and a 2-car garage. The property has a 0.35 of an acre site and is located in Roscoe, Roscoe Township, Winnebago County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on February 26, 2021 for a price of $82,500. The appellants completed Section IV – Recent Sale Data of the appeal petition disclosing that the parties were not related, the property was sold using a realtor and was advertised for sale with the Multiple Listing Service for 55 days, and the sale was not due to foreclosure or by contract for deed. The appellants presented copies of the settlement statement, indicating realtors' commissions were paid; the listing sheet, indicating the property was listed for 55 days; and the Real Estate Transfer Declaration, indicating the property was advertised for sale. 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 $69,937. The subject's assessment reflects a market value of $209,832 or $79.39 per square foot of living area, land included, when applying the statutory level of assessment of 33.33%.[1]

The board of review submitted a brief contending that the February 2021 sale was not a valid sale and the appellant did not submit a signed copy of the Real Estate Transfer Declaration. The board of review further contended the property was in a distressed condition in February 2021, as demonstrated by photographs submitted by the board of review, and the subject was listed for sale again in August 2021 for $325,000 and later reduced to $299,900, as described in a listing sheet presented by the board of review. The board of review argued the subject had been renovated since February 2021, as demonstrated by photographs presented by the board of review which depict different flooring and finishes. Thus, the board of review asserted the subject was not in the same condition on January 1, 2022 as it was in February 2021. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellants argued the subject's sale is the best evidence of market value and that repairs and maintenance to a residential property do not increase a residential property's

[1] Procedural rule Sec. 1910.50(c)(1) provides that in all counties other than Cook, the three-year county wide assessment level as certified by the Department of Revenue will be considered. 86 Ill.Admin.Code Sec. 1910.50(c)(1). Prior to the drafting of this decision, the Department of Revenue has yet to publish figures for tax year 2022.

assessment under Section 10-20 of the Property Tax Code (35 ILCS 200/10-20). The appellants noted the subject was listed in August 2021 but did not sell.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The record contains evidence of a sale of the subject property in February 2021 for a price of $82,500 and a listing of the subject property in August 2021 for $325,000, reduced to $299,900. The Board finds the appellants demonstrated the February 2021 sale had the elements of an arm's length transaction. Although the board of review asserted the Real Estate Transfer Declaration was unsigned, the appellants also presented a listing sheet and settlement statement in support of the sale.

However, the board of review contended the subject had been extensively renovated since the February 2021 sale, and thus, the February 2021 purchase price was not reflective of market value. The board of review presented evidence the subject was listed in August 2021 for a significantly higher price than its February 2021 sale. The appellants did not refute the August 2021 listing, but contended the property did not sell. The appellants acknowledged the renovation of the subject property, but argued such renovation constitutes repairs and maintenance that do not increase the assessment of a property under Section 10-20 of the Property Tax Code (35 ILCS 200/10-20).

Section 10-20 provides as follows:

> 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.

The Board finds the requirements of Section 10-20 have not been met. The Board finds the renovations to the subject in 2021 materially altered the character and condition of the structure as demonstrated by an August 2021 list price ($299,900) that was significantly higher than the February 2021 sale price ($82,500).

Based on this record the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject's assessment is not reflective of market value and a reduction in the subject's assessment is not justified.

APPELLANT:	**Margaret Lewis**
DOCKET NUMBER:	**21-00982.001-R-1**
DATE DECIDED:	**February 2024**
COUNTY:	**Lake**
RESULT:	**Increase**

The subject property consists of a part one-story and part two-story dwelling of brick exterior construction with 3,444 square feet of living area.[1] The dwelling was constructed in 1995. Features of the home include a concrete slab foundation, central air conditioning, a fireplace and a 480 square foot garage. The property has an approximately 9,150 square foot site and 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 five comparable sales located within .12 of a mile from the subject property. The comparables have sites that range in size from 5,230 to 10,890 square feet of land area. The appellant reported the comparables are improved with one-story[2] or two-story dwellings of brick exterior construction that range in size from 3,026 to 3,354 square feet of living area. The dwellings were built from 1994 to 1996. Each comparable has a concrete slab foundation, central air conditioning, one or two fireplaces and a garage ranging in size from 400 to 480 square feet of building area. The properties sold from July 2020 to January 2021 for prices ranging from $350,000 to $440,000 or from $108.26 to $131.19 per square foot of living area, land included.

The appellant's comparables have total assessments ranging from $148,808 to $173,424 or from $49.18 to $52.48 per square foot of living area, land included.

Based on this evidence, the appellant requested the subject's total assessment be reduced to $133,088, which reflects a market value of $399,304 or $115.94 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 $153,817 or $44.66 per square foot of living area, land included. The subject's total assessment reflects a market value of $462,608 or $134.32 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 that have the same assessment neighborhood code as the subject and are located within .31 of a mile from the subject property. The comparables have sites that range in

[1] The Board finds the best description the subject dwelling's story height is found in the subject's property record card provided by the board of review.

[2] The appellant's comparables #2, #3 and #4 have above ground living areas of 3,268, 3,354, and 3,233 square feet with ground floor areas of 1,096, 1,213 and 809 square feet, respectively, suggesting the dwellings are part two-story.

size from 7,840 to 9,580 square feet of land area and are improved with one-story[3] or two-story dwellings of brick exterior construction ranging in size from 3,108 to 3,502 square feet of living area. The dwellings were built in 1993 or 1995. Each comparable has a concrete slab foundation, central air conditioning, a fireplace and a garage ranging in size from 400 to 480 square feet of building area. The properties sold from September 2020 to December 2021 for prices ranging from $525,000 to $570,000 or from $154.73 to $172.14 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 $575,000 or $166.96 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 May 20, 2021 for a price of $595,000 and closed on September 13, 2021 for a sale price of $575,000.[4]

The board of review comparables have total assessments ranging from $152,099 to $179,224 or from $43.43 to $51.28 per square foot of living area, land included.

The board of review submitted a memorandum noting the following:

> 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 Illinois Supreme Court has ruled that a contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc, 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

Based on this evidence, the board of review requested the subject's total assessment be increased to $191,648 or $55.51 per square foot of living area, land included, which reflects the 2021 purchase price of $575,000 when applying the statutory level of assessment of 33.33%.

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

[3] The board of review's comparables #1 and #5 have above ground living areas of 3,468 and 3,393 square feet with ground floor areas of 1,096 and 885 square feet, respectively, suggesting the dwellings are part two-story.
[4] The record indicates the appellant filed the original appeal on December 8, 2021, less than three months after the subject's September 13, 2021 sale date.

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 the five comparable sales submitted with the appeal petition. The board of review presented comparable sales data on five properties and the sale of the subject in an effort to increase the subject's assessment. The evidence disclosed the subject sold in September 2021 for a price of $575,000. 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.

The parties submitted a total of ten comparable sales for the Board's consideration. The Board has given less weight to the appellant's comparables #1 and #5, along with board of review comparable #4 which differ from the subject in dwelling size. Besides the subject's sale price, the Board finds the best evidence of market value, in terms of comparable sales, to be the parties' remaining comparables, which are overall more similar to the subject in location, dwelling size, design, age and features. These best comparables sold from September 2020 to December 2021 for prices ranging from $350,000 to $570,000 or from $108.26 to $164.36 per square foot of living area, including land. The subject's current total assessment reflects a market value of $462,608 or $134.32 per square foot of living area, including land, which falls within the range established by the best comparable sales in this record.

In addition, the Board finds the most similar comparable sales presented by the parties have total assessments ranging from $168,446 to $179,224 or from $50.02 to $52.10 per square foot of living area, land included. The subject's current total assessment of $153,817 or $44.66 falls below the range of total assessments established by the best comparable sales in this record. Moreover, the Board finds that the board of review's proposed increase in the subject's total assessment to $191,648 or $55.51 per square foot of living area, land included, would fall significantly 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 $575,000 or $166.96 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 $462,608 or $134.32 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 as requested by the board of review in order to maintain uniformity of assessments.

APPELLANT:	**Colleen Mygatt**
DOCKET NUMBER:	**19-27666.001-R-1**
DATE DECIDED:	**April 2024**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property is improved with a three-story, single-family dwelling of masonry construction with 3,711 square feet of living area. The building was 27 years old. Features include a slab foundation, central air conditioning, and a two-car garage. The property has a 2,640 square foot site and is located in Chicago, Lake View Township, Cook County. The subject is classified as a class 2-78 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant asserts assessment inequity as a basis of the appeal. In support of this argument, the appellant submitted information on five suggested equity comparables.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject as $122,884. The subject property has an improvement assessment of $103,876 or $27.99 per square foot of living area. In support of its contention of the correct assessment, the board of review submitted information on four suggested equity comparables.

A hearing was held before a Board administrative law judge on September 29, 2023. At the hearing, the appellant's attorney stated that the subject property sold for $1,100,000 in August 2015. This was originally the basis for appellant's appeal, but the Board sent him a notice that the appeal petition was incomplete. When appellant submitted a new appeal petition, the basis for the appeal was changed to assessment equity and recent sale was not raised as a ground. Nevertheless, appellant's attorney asked the Board to consider the 2015 sale and reduce the subject's assessed value to $110,000. The board of review's representative stated that the board of review's equity comparables were superior to appellant's comparables. She further testified that the August 2015 sale of the subject was too remote in time to be indicative of the subject's market value on January 1, 2019, the applicable valuation date.

Conclusion of Law

The taxpayer asserts assessment inequity as the basis of the appeal. The Illinois Constitution requires that real estate taxes "be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill. Const., art. IX, § 4 (1970); Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228, 234 (1998). This uniformity provision of the Illinois Constitution does not require absolute equality in taxation, however, and it is sufficient if the taxing authority achieves a reasonable degree of uniformity. Peacock v. Property Tax Appeal Board, 339 Ill. App. 3d 1060, 1070 (4th Dist. 2003).

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); Walsh, 181 Ill. 2d at 234 (1998). Clear and convincing evidence means more than a preponderance

of the evidence, but it does not need to approach the degree of proof needed for a conviction of a crime. Bazyldo v. Volant, 164 Ill. 2d 207, 213 (1995). 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.

The Board finds that the best evidence of assessment equity is the board of review's suggested comparables one through four, and the appellant's comparable one. Like the subject property, these comparables have three-story, single-family residences of masonry construction with central air conditioning, slab foundations, and two-car garages. The dwellings on these comparables are similar to the subject dwelling in age and living area size. These comparables are all on the same block as the subject.

These comparables had improvement assessments that ranged from $3.07 to $30.89 per square foot of living area. The subject's improvement assessment of $27.99 per square foot of living area falls within the range established by the best comparables in this record, and it is lower than four of those five comparables. The Board therefore finds that the appellant did not demonstrate with clear and convincing evidence that the subject was inequitably assessed, and a reduction in the subject's assessment on this basis is not justified.

At the hearing, the appellant's attorney also purported to assert overvaluation and more specifically, a recent sale, as a basis for the appeal. This is problematic because recent sale was not a basis for appeal in the appeal petition that the Board accepted for filing. Even if the Board overlooked this omission, the evidence submitted by the appellant was not sufficient to show overvaluation.

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). Appellant's original, incomplete appeal petition stated that the subject was sold on August 3, 2015. But this sale was too remote in time to establish the subject's market value as of January 1, 2019, the applicable valuation date. Furthermore, the appellant did not complete section IV of the appeal petition, which is titled "Recent Sales Data" and seeks information that is relevant in determining whether the sale was an arm's length transaction that reflected the subject's market value. Accordingly, even if the appellant had asserted the 2015 sale as a basis for appeal in the appeal petition accepted by the Board, that assertion would have failed because of the insufficiency of the appellant's evidence.

APPELLANT:	**Mihaela Ples**
DOCKET NUMBER:	**21-40697.001-R-1**
DATE DECIDED:	**April 2024**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of a 20,000 square foot parcel of land improved with a four-year-old, two-story, frame, single-family dwelling containing 4,269 square feet of building area. The property is located in La Grange, Lyons Township and is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of the market value argument, appellant submitted a copy of the first page of the final master statement which disclosed the purchase of the subject on November 18, 2021 for $872,000. The petition discloses that the transfer was not between related parties, the property was sold by owner, that the property was advertised for sale for two years, and that the property was not sold due to a foreclosure or using a contract for deed. The appellant also submitted an appraisal of the subject estimating a value as of September 3, 2021 of $900,000. The petition discloses that the subject is not an owner-occupied residence.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of $104,423 which reflects a market value of $1,044,230 using the Cook County Real Estate Classification Ordinance level of assessment for class 2 property of 10%. In support of the current assessment, the board of review submitted four comparables with sales information on one. This property is described as a two-story, frame, 19-year-old, single-family dwelling containing 3,847 square feet of building area. It sold in January 2021 for $807,000. The board of review's evidence also lists a sale for the subject in November 2021 for $872,000.

At hearing, the appellant, Adriana Ples, testified that she is the trustee and beneficiary of the trust named in the settlement statement. She testified that in selling the subject property, she advertised the property on the multiple listing Service (MLS) through her realtor, Beycone Realty. Ms. Ples testified that the subject was offered for a higher value, that there were several open houses, and that the subject sold for $872,000 which is below the original listed price.

The appellant did not offer the appraiser as a witness and the board of review's representative, Danielle Lahee, objected to the appraisal based on hearsay. Ms. Lahee argued that the petition requested a change in the land assessment and that the appraisal may not include the land in its value. Ms. Ples confirmed that she is looking for an assessment that reflects the subject's appraisal value or sale price and this may include a reduction in the land.

Ms. Lahee testified that the board of review submitted four comparables that are assessed above the subject's assessment on a square footage basis. When questioned as to sales information, she testified that comparable #4 sold for a higher price than the subject's sale price. She acknowledged the board of review listed the sale of the subject in November for $872,000.

On cross examination, Ms. Ples argued that the board of review's comparables are located in a better town than the subject which is not similar to the subject. Ms. Lahee acknowledged she has no personal knowledge of the comparables.

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).

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to her qualifications, identify her work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the Board. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105. In this appeal, the board of review objected to the appraisal as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the Board will consider the raw sales data submitted by the parties.

The Board finds the best evidence of market value to be the purchase of the subject property in November 2021 for a price of $872,000. The appellant submitted evidence of the sale of the subject and testified that the subject was listed on the open market, that a realtor was involved in the sale, and that the price listed was reduced when there were no offers. The board of review did not rebut that the sale was arm's-length and, in fact, included the sales information in its evidence. Based on this record the Board finds the subject property had a market value of $872,000 as of the lien date. Since market value has been determined, the level of assessment of 10% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance shall apply and a reduction in the subject's assessment is warranted.

APPELLANT:	**Prairie View Townhomes Condo**
DOCKET NUMBER:	**19-07171.001-R-3 thru 19-07171.020-R-3**
DATE DECIDED:	**April 2024**
COUNTY:	**Lake**
RESULT:	**No Change**

The subject properties consist of 20 units in a single condominium building of brick exterior construction built in 2002. Each condominium unit has a 5% ownership interest in the common elements, two stories, 1,700 square feet of living area, central air conditioning, a basement, a fireplace, and a 400 square foot garage. The property is located in Libertyville, Libertyville Township, Lake County.

The appellant appeared before the Property Tax Appeal Board by counsel William Seitz contending overvaluation as the basis of the appeal.[1] In support of this argument the appellant submitted information on six comparable sales, two of which are located in the subject's assessment neighborhood.[2] The comparables consist of two-story condominium units of brick exterior construction ranging in size from 1,700 to 2,236 square feet of living area. The homes were built in 2002 or 2006. Each dwelling has central air conditioning, a fireplace, a basement, and a garage containing 400 square feet of building area. The comparables sold from May 2018 to October 2019 for prices ranging from $340,000 to $386,000 or from $156.68 to $216.47 per square foot of living area, including land. Based on this evidence, the appellant requested a reduced total assessment for each unit of $102,556, for an estimated market value of $307,699 or $181.00 per square foot of living area, including land, when applying the statutory level of assessment of 33.33%.

At hearing, appellant's counsel called Jamal Wolfe, an Illinois licensed real estate broker with Village Realty Property Management, to testify. The intervenor's counsel raised an objection to allowing Mr. Wolfe to testify on the grounds that his testimony was irrelevant and prejudicial to the intervenor. The Administrative Law Judge allowed the testimony of the appellant's witness and reserved ruling as to the admissibility of his testimony. The Board herein finds that the testimony of the appellant's witness will be allowed and be given appropriate weight.

Mr. Wolfe testified that he was engaged to conduct a review of the sales comparables submitted in this case. As part of that review, Mr. Wolfe stated that he reviewed the Multiple Listing Service (MLS) sheets for each comparable. Appellant's counsel sought to introduce the MLS sheets, which were marked as Hearing Exhibits 1 and 2. Intervenor's counsel objected to the entry of new evidence and the Administrative Law Judge reserved ruling on the admissibility of the exhibits.

Section 1910.67(k)(1) of the rules of the Property Tax Appeal Board provides:

[1] The appellant marked comparable sales as the basis of the appeal. At hearing, the appellant attempted to raise a contention of law, which was objected to by the intervenor. Pursuant to 35 ILCS 200/16-180, "Each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board." Therefore, the Board will not consider the appellant's contention of law argument.

[2] The appellant submitted a comparable grid with four comparables as well as information for two additional comparables. For ease of reference, the Board has numbered the two additional comparables #5 and #6.

> In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless… such evidence has been submitted to the Property Tax Appeal Board **prior to the hearing** pursuant to this Part. Emphasis added.

(86 Ill. Admin. Code §910.67(k)(1)).

The Board finds that the appellant's Hearing Exhibits 1 and 2 were not timely submitted prior to the hearing and, thus, the Board sustains the intervenor's objection and will disallow said exhibits to be introduced as evidence in this record. To the extent the MLS listings are used to refresh the witness' recollection regarding the sales, the Board finds they may be used for that purpose.

Wolfe was presented with a copy of the appellant's comparable sales, which was marked as Hearing Exhibit 3, and testified that the first two comparables on Milwaukee Avenue were each similar to the subjects, being condominiums with two-car garages and a shared driveway, and each along the same major street. Wolfe stated that the remaining comparables on Finstad Drive were similar to the subjects, but differed from the subjects somewhat in dwelling size. Wolfe then noted that the sale prices of the comparables range from $340,000 to $386,000.

When presented with PTAX-203 Real Estate Transfer Declarations for the comparables, marked as Hearing Exhibit 4, Wolfe testified that the information contained therein matched the County's records for the properties. Counsel then presented the witness with a list of sales within the subjects' building, Hearing Exhibit 5, with Wolfe noting the sale prices and sale prices per square foot of the comparables.

Wolfe then confirmed that each of the subject units were identical to one another in age, dwelling size, and design.

The Board finds that the appellant's Hearing Exhibit 4 was not timely submitted prior to the hearing and, thus, the Board sustains the intervenor's objection and will disallow said exhibit to be introduced as evidence in this record.

Under cross-examination by the intervenor's counsel, Wolfe stated that he was not a real estate appraiser, did not prepare the evidence presented in this case, and did not make any adjustments to the comparables. Wolfe confirmed that the assessments for the two comparables located in the subjects' building were identical to the subjects' assessments. Wolfe confirmed that the Milwaukee Ave. and Finstad Dr. condominium buildings were not part of the same community, and that the Milwaukee Ave. units differed from the Finstad Dr. units in age, dwelling size, and design.

Under re-direct examination, Wolfe testified that the two condominium buildings are similar and that a buyer interested in a unit in one building would also be interested in the other as both are similar in most respects.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment per unit of $120,550. Each unit's assessment reflects a market value of $366,525 or $215.60 per square foot of living 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.

The board of review did not appear at the hearing and is found to be in default pursuant to section 1910.69(b) of the rules of the Property Tax Appeal Board. (86 Ill. Admin. Code §1910.69(b)).

Intervenor Libertyville School District #70 appeared by counsel Katie DiPiero. In support of its contention of the correct assessment the intervenor submitted information on five comparable sales. The comparables consist of one-story, two-story, or three-story dwellings of vinyl siding, brick, brick and frame, brick and stone, or brick, stone, and concrete exterior construction ranging in size from 2,195 to 2,550 square feet of living area.[3] The dwellings were built from 2003 to 2017. Each dwelling has central air conditioning and a two-car garage. Three comparables each have one or two fireplaces and four comparables each have a basement with three having finished area. The comparables sold from May 2016 to November 2018 for prices ranging from $451,900 to $572,866 or from $221.18 to $265.82 per square foot of living area, including land. Based on this evidence, the intervenor requested confirmation of the subject's assessment.

In rebuttal, the appellant recalled Mr. Wolfe. Appellant counsel presented Mr. Wolfe with photographs and maps of the intervenor's comparables, which was marked as Hearing Exhibit 6. Wolfe stated that he had viewed each of the comparables submitted by the intervenor. Wolfe then testified that the comparables were within 2 miles of the subjects and in dissimilar areas compared to the subject.

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 parties submitted a total of 11 comparable sales to support their respective positions before the Property Tax Appeal Board. The Board gives less weight to the appellant's comparables #2, #3, #4, and #6, as well as the intervenor's comparables, which differ from the subject in age, design, and/or dwelling size, or sold less proximate to the January 1, 2019 assessment date at issue.

The Board finds the best evidence of market value to be the appellant's comparable sales #1 and #5, which sold proximate to the assessment date at issue and are identical to the subject in dwelling size, age, and features, and are located in the same building as the subjects. These most similar comparables sold in June 2018 and October 2019 for prices of $340,000 and $368,000 or for $200.00 and $216.00 per square foot of living area, including land. The subjects' assessments reflect a market value for each unit of $366,525 or $215.60 per square foot of living area, including land, which is bracketed by the best comparable sales in this record. Based on this evidence and

[3] Additional details were drawn from the MLS sheets submitted by the intervenor.

after considering adjustments to the best comparables for differences when compared to the subject, the Board finds a reduction in the subject's assessment is not justified.

APPELLANT:	**Georgette Slaven**
DOCKET NUMBER:	**22-00374.001-R-1**
DATE DECIDED:	**September 2024**
COUNTY:	**Lake**
RESULT:	**Increase**

The subject property consists of a two-story dwelling of brick exterior construction with 4,942 square feet of living area. The dwelling was constructed in 1993 and is approximately 29 years old. Features of the home include a full basement finished with a recreation room, central air conditioning, three fireplaces and an attached 1,203 square foot garage. The property has an approximately 38,970 square foot site and is located in Gurnee, Warren 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, each of which is located in Hunt Club Farms as compared to the subject located in Mill Creek Crossing. Each of the comparables are located from .77 to .88 of a mile from the subject. The comparables have sites that range in size from 88,240 to 105,570 square feet of land area and are improved with either a 1.5-story or a 2-story dwelling of brick or wood siding exterior construction. The homes were built from 1987 to 1994 and range in size from 4,128 to 5,465 square feet of living area. The homes each have a basement, one of which has a recreation room. Features include central air conditioning, two or three fireplaces and a garage ranging in size from 793 to 1,248 square feet of building area. Comparable #1 has an inground swimming pool. The comparables sold in April 2020 or August 2022 for prices of $550,000 or $625,000 or from $106.36 to $133.24 per square foot of living area, including land.

The appellant disclosed on the Residential Appeal petition that the subject property is an owner-occupied residence.

Based on this evidence, the appellant requested a reduced total assessment of $188,370, which would reflect an estimated market value of $565,167 or $114.36 per square foot of living area, 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 $231,388. The subject's assessment reflects a market value of $695,695 or $140.77 per square foot of living area, land included, when using the 2022 three-year average median level of assessment for Lake County of 33.26% as determined by the Illinois Department of Revenue. The board of review disclosed the first year of the general assessment period was 2019 and Warren Township equalization factors were applied in the 2020, 2021 and 2022 tax years to all non-farm properties in the township. Published factors provided with the board of review evidence depict that Warren Township had equalization factors of 1.0299, 1.0252 and 1.0418 for years 2020, 2021 and 2022, respectively.

In support of its contention of the correct assessment, the board of review submitted a copy of the Final Administrative Decision issued by the Property Tax Appeal Board pertaining to the subject property for the 2019 tax year under Docket Number 19-07092.001-R-1. In that appeal, the

Property Tax Appeal Board issued a decision based upon the evidence in the record lowering the subject's assessment to $231,640 based on an agreement of the parties. The board of review explained that the subject's 2022 assessment should be $254,801 after the application of the 2020, 2021 and 2022 Warren Township equalization factors as provided by section 16-185 of the Property Tax Code.[1] (35 ILCS 200/16-185).

In further support of its contention of the correct assessment, the board of review submitted information on four comparable sales located in Mill Creek Crossing and within .23 of a mile from the subject. The comparables have sites ranging from 26,200 to 39,400 square feet of land area. The lots are improved with either a 1.5-story or a 2-story dwelling of wood siding exterior construction. The homes were built from 1989 to 1997 and range in size from 3,107 to 3,889 square feet of living area. Each comparable has a full or partial basement with a recreation room. Features include central air conditioning, two or three fireplaces, and a garage ranging in size from 704 to 874 square feet of building area. The comparables sold from December 2021 to June 2022 for prices ranging from $540,000 to $639,000 or from $164.31 to $189.57 per square foot of living area, including land.

Based on this evidence, despite the terms of section 16-185 of the Property Tax Code, the board of review requested that the Property Tax Appeal Board sustain the subject's tax year 2022 assessment.

On October 2, 2023, the Property Tax Appeal Board issued Standing Order No. 3. The Standing Order expressly articulates this Board's interpretation of section 16-185 of the Property Tax Code (35 ILCS 200/16-185), commonly referred to as the "Rollover Statute."[2] Because the Standing Order was issued after this matter was filed, an email was sent to the appellant's counsel of record and all other parties on March 1, 2024. The email notified the parties of the issuance of the Standing Order and granted the appellant thirty (30) days to withdraw the appeal or file a brief arguing the merits of this Board's interpretation of the Rollover Statute. The appellant did not withdraw this appeal nor has a brief been filed as allowed. Therefore, the appellant through legal counsel has forfeited her opportunity to present a legal argument contesting this Board's interpretation of the Rollover Statute.

The Property Tax Appeal Board further finds this parcel was the subject matter of three previous appeals before this Board as follows:

(1) For tax year 2019 under Docket Number 19-08005.001-R-1, appellant was Bryan Slaven represented by attorney Timothy C. Jacobs. In this appeal, the Property Tax Appeal Board rendered a decision lowering the subject's assessment to $231,640 based on an agreement of the parties.

(2) For tax year 2020 under Docket Number 20-05024.001-R-1, appellant was Georgette Slaven represented by attorney Ronald Kingsley. The appeal did not include any information that the property was owner occupied. The Property Tax Appeal Board issued a no change decision

[1] Mathematically the calculation begins with the first year of the general assessment cycle which was established as $231,640 x 1.0299 = $238,566 x 1.0252 = $244,578 x 1.0418 = $254,801.
[2] A copy of Standing Order No. 3 has been added to the record in this matter.

based on comparable sales evidence provided by both parties. Therefore, the 2020 assessment of $216,645 was confirmed by the Board.[3]

(3) For tax year 2021 under Docket Number 21-04210.001-R-1, appellant was Georgette Slaven represented by attorney Kingsley. The appeal again did not clearly indicate whether the property was owner occupied. Therefore, the Property Tax Appeal Board rendered a no change decision based on comparable sales evidence provided by both parties and found the record evidence was ambiguous as to whether the property was owner-occupied as necessary to apply section 16-185 of the Property Tax Code. Thus, the 2021 assessment of $222,104 was confirmed by the Board.

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).

On this record for tax year 2022, the Property Tax Appeal Board finds the board of review submission disclosed that the Lake County quadrennial general assessment period began with the 2019 tax year and continues through the 2022 tax year. Furthermore, the appellant's Residential Appeal petition affirmatively asserts this property is owner-occupied and the final decision issued by the Lake County Board of Review further depicts the taxpayer is Georgette Slaven, Trustee. Likewise, the property record card for the subject submitted by the board of review depicts the owner as Georgette Slaven, Trustee.

Given the foregoing series of appeals on an owner-occupied residence which have been pursued before this Board, the Property Tax Appeal Board further finds section 16-185 of the Property Tax Code is controlling in this tax year 2022 appeal. (35 ILCS 200/16-185).

Section 16-185 of the Property Tax Code provides in part:

> If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel 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 Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

[3] Taking judicial notice of the record in Docket No. 20-05024, as depicted on the tax year 2020 final decision, the assessment prior to board of review action was $248,225, which the board of review reduced to $216,645 given the evidence presented at the local hearing.

The Board finds this record for tax year 2022 clearly establishes that the subject property is an owner-occupied dwelling and that the 2019, 2020 and 2021 tax years are all within the same general assessment period. Furthermore, the decision of the Property Tax Appeal Board for the 2019 tax year, the first year of the general assessment cycle, was not reversed or modified upon review. Furthermore, there has been no evidentiary submission that this property sold establishing a different fair cash value. The record also discloses that in tax years 2020, 2021 and 2022 township equalization factors of 1.0299, 1.0252 and 1.0418, respectively, were applied in Warren Township, which was unrefuted by the appellant. Therefore, applying section 16-185 of the Property Tax Code results in an increased total assessment of $254,801 reflecting a market value of $766,088 or $155.02 per square foot of living area, including land, when using the 2022 three-year median level of assessment for Lake County of 33.26% as determined by the Illinois Department of Revenue.

As a final point, the Board finds the best evidence of market value to be the board of review comparables, all of which sold more proximate in time to the assessment date at issue and are overall most similar to the subject in location, age, design, finished basement feature and most amenities, except the subject has a significantly larger garage than these comparables. These most similar comparables sold from December 2021 to June 2022 for prices ranging from $540,000 to $639,000 or from $164.31 to $189.57 per square foot of living area, including land. The subject's increased assessment based on section 16-185 reflects a market value of $766,088 or $155.02 per square foot of living area, including land, is below the range established by the best comparable sales in this record on square foot of living area basis and above the range in terms of overall value. The Board finds that each of these conclusions are logical given that the subject dwelling is from to 21% to 37% larger than the best comparable sales in the record presented by the board of review. Given the principle of the economies of scale in real estate which holds that real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. Thus, the subject’s lower per square foot value and higher overall value is logical given the differences in dwelling size.

The Board has given reduced weight to the appellant's comparables #2 and #3, due to dates of sale in 2020 which are more remote in time to the lien date at issue of January 1, 2022 and thus less likely to be indicative of the subject’s market value. Furthermore, the Board has given reduced weight to appellant’s comparables #1 and #2 due to their unfinished basements when compared to the subject’s finished basement amenity. In addition, appellant’s comparable #1 has an inground swimming pool which is not a feature of the subject property.

Based on this record the Board finds a reduction in the subject's assessment is not justified. Furthermore, the Board finds, as articulated in Standing Order No. 3, that section 16-185 of the Property Tax Code (35 ILCS 200/16-185) mandates an increase in the subject's assessment.

APPELLANT:	**Courtney Wander & Rhett Willborn**
DOCKET NUMBER:	**21-06692.001-R-2 thru 21-06692.003-R-2**
DATE DECIDED:	**March 2024**
COUNTY:	**McHenry**
RESULT:	**No Change**

The subject property consists of a two-story dwelling of Dryvit exterior construction with 9,116 square feet of living area. The dwelling was constructed in 1995. Features of the home include a crawl-space foundation, central air conditioning, two fireplaces, a 1,599 square foot attached garage, and a 2,280 square foot detached garage, which also contains an unfinished attic. The property has a 130,680 square foot riverfront site and is located in McHenry, McHenry Township, McHenry County.

The appellants appeared before the Property Tax Appeal Board by counsel Jessica Hill-Magiera arguing both a contention of law and overvaluation as the bases of the appeal.

As to the contention of law, the appellants note that the board of review reduced the subject's assessment for the 2020 tax year, based on the subject's December 2019 sale, and argue that the reduced assessment be carried forward to the 2021 tax year pursuant to Section 16-80 of the Property Tax Code (35 ILCS 200/16-80).

In support of the overvaluation argument, the appellants submitted evidence of the subject's December 2019 sale. The appellants disclosed the subject property was purchased in December 2019 for a price of $650,000. The appellants reported that the seller was Harold E. Nicodem, the parties to the transaction were not related, and the property was sold through a realtor. The appellants also indicated the property was advertised for sale through the Multiple Listing Service for a period of 155 days. In further support of the appeal, the appellants submitted a copy of the Multiple Listing Service sheet, the PTAX-203 Real Estate Transfer Declaration, and settlement statement which list the sale price of $650,000, a settlement date of December 10, 2019, and depict commissions being distributed to Coldwell Banker and Baird and Warner. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the purchase price.

At hearing, appellants' counsel stated that the home was listed for nearly two years prior to the sale, with an original list price of $1,695,000 which was subsequently lowered to $1,200,000. Appellants' counsel explained that the home suffered water damage and was then taken off the market. Counsel then pointed out that the home was relisted after approximately 20% of the repairs were completed and eventually sold in December 2019.

Board of review member Sharon Bagby asked appellants' counsel why no actual costs of repairs were submitted, rather than the insurance estimate, to which appellants' counsel replied that she did not have any evidence of the actual costs. Bagby also asked appellants' counsel whether the PTAX-203 Real Estate Transfer Declaration indicated if the subject was going to be owner occupied, and counsel stated that the box was checked "no" as to whether the home would be the appellants' principal residence.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $444,014. The subject's assessment reflects a market value of $1,332,975 or $146.22 per square foot of living area, land included, when using the 2021 three-year average median level of assessment for McHenry County of 33.31% as determined by the Illinois Department of Revenue.

Appearing on behalf of the McHenry County board of review were board members Sharon Bagby, Clifton Houghton, and Michael Grebenick. Also present was Alejandro Benitez, Valuation Director for the McHenry County board of review.

The board of review called McHenry Township Assessor Mary Mahady to testify. Mahady stated that she was informed by the previous owners of the subject that there had a been a water main break in the home in the winter of 2019 and the owners' submitted insurance estimates for the repairs. Ms. Mahady testified that she performed an interior inspection of the home, noting that the damage started on the second floor of the home and affected approximately 70% of the first floor. She noted that the drywall, carpet, and flooring had been removed. Mahady then explained that she reduced the assessment for 2019 based on the insurance estimate. Mahady stated that she was notified in 2020, by the issuance of an occupancy certificate, that the repairs had been completed. Mahady explained that she returned the assessment to the previous value based on the change in the condition of the property.

Mahady testified further that the appellants were not occupying the subject as of January 1, 2020. She stated that the appellants were living in another home on Margaret Court, which received a homeowner's exemption. Mahady reiterated that the appellants did not occupy the subject until May 2020. Mahady stated that the subject was listed in September 2021 for $2,600,000 and was taken off the market in December 2021. Mahady pointed out that the 2021 assessment was increased from 2020 by a township equalization factor.

Under questioning by board of review member Grebenick, Mahady testified that the work that was completed to the home exceeded, in her opinion, what would be considered repairs and constituted an upgrade over the previous condition of the home. She stated that the photographs from the 2021 listing depicted an upgraded condition of the home as opposed to the condition prior to the water damage, resulting in an increased value.

Under questioning by the intervenor's counsel, Mahady testified that she believed the board of review reduced the 2020 assessment to the purchase price because the repairs had not been completed as of January 1, 2020.

Under cross-examination, Mahady stated that she had not conducted an interior inspection of the subject prior to 2019. She then confirmed that although the home was listed in 2021 it did not sell.

On re-direct examination, Ms. Mahady confirmed that the home was listed in September 2021 for $2,600,000. She stated that the market value, as reflected by the assessment, that year was $1,332,042. Ms. Mahady was then asked to describe the property. She described the property as being located on the Fox River sitting on approximately three acres of land, and containing 9,116 square feet of living area. She asserted that the subject was a unique waterfront property at the higher end of value in the township. Mahady stated that the appellants did not receive a

homeowner's exemption for the subject until 2021 since they were receiving the exemption on the other property they owned and occupied as of January 2020. She also reiterated that she increased the assessment based on a change in condition to the property.

Under questioning by the Administrative Law Judge, Mahady stated that the 2021 assessment was based on the 2019 assessment with the application of equalization factors, as well as Mahady reviewing other sales to determine the market value.

In support of its contention of the correct assessment the board of review submitted a copy of the subject's property record card, photographs of the home, an aerial photograph of the property, Multiple Listing Service sheets associated with the subject's 2019 sale and 2021 listing, and a listing and history report.

In written rebuttal, the appellants submitted a copy of the insurance company estimate of repair costs and argued that the assessment should not exceed the 2019 purchase price with the addition of the estimated repair costs and any equalization factors applied.

Conclusion of Law

The appellants appeal the assessment of the subject, in part, under the category of a contention of law. The appellants seek to have the 2020 assessment carried forward to the 2021 tax year. 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 appellants did not meet this burden of proof and a reduction in the subject's assessment based on a contention of law is not warranted.

The appellants seek to have the 2020 assessment carried forward to the 2021 tax year based on Section 16-80 of the Property Tax Code. 35 ILCS 200/16-80. Section 16-80 provides as follows:

> 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.

There is no dispute that the appellants did not occupy the home on the assessment date of January 1, 2020. Further, the record reveals that the appellants received a homeowner's exemption on a different property for tax year 2020 and the PTAX-203 submitted by the appellants indicates the property was not to be the appellants' principal residence.

Further, the Board finds the board of review demonstrated substantial cause as to why the 2020 reduced assessment should not remain in effect for the 2021 tax year. The record evidence and testimony reveal that the subject suffered extensive water damage which resulted in a reduced assessment for 2020. The evidence and testimony further show that repairs to the property were completed in March 2020 which restored the home to its previous condition.

For these reasons, the Board finds that under the facts of this appeal Section 16-80 of the Property Tax Code is not applicable.

The appellants also 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board gave diminished weight to the subject's December 2019 sale price, which occurred 13 months prior to the assessment date at issue in this appeal. The Board finds the sale price does not reflect the updated condition of the subject property as of the January 1, 2021 assessment date. The Board finds the record is unrefuted that the subject dwelling received extensive interior repairs and remodeling after its December 2019 sale. Less weight was given to the insurance estimate of repair costs, which is only a preliminary account of the subject's repair expenses, and no evidence was submitted of the actual cost to repair the home. Finally, the appellants listed the home in September 2021 for $2,600,000, considerably more than its estimated market value as reflected by its assessment, which further detracts from the appellants' contention that the subject property is overvalued. In Application of Rosewell, 120 Ill. App. 3d 369 (1st Dist. 1983), the court recognized assessing officials are not barred, as a matter of law, from considering events which occurred after the lien date in assessing properties and subsequent events assessing officials may consider in any individual case will depend on the nature of the event and the weight to be given the event will depend upon its reliability in tending to show value as of January 1. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

APPELLANT:	**Wellington Homeowners Association**
DOCKET NUMBER:	**20-34031.001-R-1 thru 20-34031.015-R-1**
DATE DECIDED:	**June 2024**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject properties are 15 parcels within a townhome development. The appellant owns the parcels and asserts that they should be assessed at one dollar per parcel under section 10-35(a) of the Property Tax Code (35 ILCS 200/10-35(a)), because they are common areas used for recreational or similar residential purposes. Two of the parcels were assessed at one dollar apiece for the 2020 tax year, so only 13 parcels are at issue. These 13 parcels are classified as class 1-00 properties, so they are subject to a 10% level of assessment under the Cook County Real Property Assessment Classification Ordinance. The two parcels already assessed at one dollar are the ones whose PINs contain 104-070 and 105-052.

Aerial photographs submitted into evidence by the appellant and representations of appellant's counsel establish that four of the parcels are vacant land and six have parking spaces. The four parcels that consist of vacant land are the ones with PINs containing 104-018, 104-019, 104-085, and 105-087. The evidence does not clearly indicate whether the other three parcels at issue are vacant land or whether they have parking spaces.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject properties of $21,683. There is no improvement assessment for any of the parcels. The board of review did not submit any evidence in support of its assessments.

A hearing was held on December 6, 2023, before a Board administrative law judge. Counsel for appellant argued that each of the parcels should be assessed at $1 under section 10-35(a). She stated that the assessor had assessed each of the parcels at $1 for subsequent tax years, and later supplied documentary evidence in support of that statement. The board of review's representative asserted that the 2020 assessments should be upheld.

Conclusions of Law

The sole issue before the Board is whether the 13 parcels in question should be assessed at $1 apiece under section 10-35(a) of the Property Tax Code. For the reasons stated below, the Board determines that appellant established that four parcels consist of vacant land, and those parcels must be assessed at $1 apiece. The other parcels are not entitled to the $1 assessment.

Section 10-35 of the Property Tax Code is titled "Subdivision common areas." Section 10-35(a) states, in relevant part:

> The common areas or areas which are used for recreational or similar residential purposes and which are assessed to a separate owner and are located on separately identified parcels, shall be listed for assessment purposes at $1 per year.

35 ILCS 200/10-35(a). Under this language, "only the common areas of a planned development that are actually used for recreational or similar residential purposes are eligible for the favorable assessment." Lake Point Tower Garage Ass'n v. Property Tax Appeal Bd., 346 Ill. App. 3d 389, 393 (1st Dist. 2004).

There is no question that each parcel is a common area in a planned development that is assessed to a separate owner and is located on a separately identified parcel. The only issue is whether the parcels "are used for recreational or similar residential purposes."

In Lake Point Tower Garage Ass'n, the Appellate Court held that Level A of a parking garage for a building that contained 718 condominium units and several businesses did not qualify for a one-dollar assessment under section 10-35(a) because it was not "used for recreational or similar residential purposes" within the meaning of that provision. Lake Point Tower Garage Ass'n,. 346 Ill. App. 3d at 394. The court stated that Level A contained a commercial parking business that "did not fall within the ambit of 'recreational or similar residential purposes.'" Id. The court defined "recreation" as "refreshment of the strength and spirits after toil" and stated that this did not include commercial activities. Id. at 395; citing Ozuk v. River Grove Bd. of Educ., 281 Ill. App. 3d 239, 243 (1st Dist. 1996).

Although Lake Point Tower Garage Ass'n is not completely on point because it involved commercial activity, it provides guidance in applying the relevant language from section 10-35(a), under which the one-dollar assessment applies only if the property is used for "recreational or similar residential activity." The Board finds that the four parcels containing vacant land qualify for the assessment under this language. Vacant land can be used for walking and numerous other recreational activities such as playing catch with a ball or a frisbee, or merely relaxing and reading a book. The Board therefore reduces the assessment of each of these parcels to one dollar.

The Board determines, however, that the parcels containing parking spaces do not qualify for one-dollar assessments under section 10-35(a). Parking is simply not a recreational use, nor is it a residential purpose that is similar to a recreational use. Regarding the three parcels where there is uncertainty as to whether they have parking spaces, it was the appellant's burden to present sufficient evidence to show that they were entitled to the favorable exemption under section 10-35(a). See 86 Ill. Admin. Code § 1910.63(b). Because appellant did not meet that burden for these three parcels, their assessments will not be disturbed. Although the disputed parcels each were assessed at one dollar by the County in subsequent tax years, the Board has an obligation to determine the correct assessment in the case before it. See 35 ILCS 200/16-180.

APPELLANT:	**Carolyn Wyness**
DOCKET NUMBER:	**20-38656.001-R-1**
DATE DECIDED:	**May 2024**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property is improved with a 2-story dwelling of masonry construction containing 3,627 square feet of living area. The dwelling was constructed in 2010 and is approximately 10 years old. Features of the home include a finished basement, central air conditioning, a fireplace and a 2-car garage. The property has a 15,125 square foot site and is located in Western Springs, Lyons Township, Cook County. The subject property is classified as a class 2-78 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends inequity in assessment with respect to the improvement, overvaluation, as well as contention of law as the bases of the appeal. In support of the uniformity (equity) argument, the appellant submitted a grid analysis with information on four equity comparables located in the same assessment neighborhood code as the subject property. The comparables are described as 2-story dwellings of masonry or frame and masonry construction ranging in size from 3,520 to 3,736 square feet of living area. The comparables have ages of either 23 or 27 years old. Each comparable has central air conditioning, a fireplace, and a 2-car garage. One comparable has a partial basement with a recreation room, and three comparables each feature a full unfinished basement. The comparables have improvement assessments ranging from $75,184 to $79,869 or from $21.36 to $21.82 per square foot of living area.

In support of the overvaluation argument, the appellant submitted an appraisal estimating the subject property had a market value of $875,000 as of January 1, 2020. The appraisal was prepared by Charles Walsh, a State of Illinois Certified Residential Real Estate Appraiser. Using the sales comparison approach to value, the appraiser provided information on three comparable sales described as 2-story and 3-story dwellings that ranged in size from 3,270 to 4,000 square feet of living area. The dwellings are either 7 or 19 years old. Each comparable features a full finished basement, central air conditioning, and a 2-car garage. Comparable #1 also features an inground swimming pool. The comparables have sites ranging in size from 6,333 to 10,700 square feet of land area. The comparables sold from July 2019 to February 2020 for prices ranging from $705,000 to $960,000 or from $196.65 to $262.69 per square foot of living area, including land. After making adjustments to the comparables for differences from the subject such as site size, age, bedroom/bathroom count, dwelling size, and pool amenity, the appraiser estimated the comparables had adjusted prices ranging from $693,792 to $913,925. Based on this data, the appraiser estimated the subject had an estimated value under the sales comparison approach of $875,000 as of January 1, 2020.

In support of the contention of law argument, the appellant's counsel submitted a brief supported by Exhibits A through E arguing that "[p]ursuant to the Constitutional Uniformity Clause, the subject's pre-COVID market value must be further adjusted with the County's COVID-19 adjustment factor which was uniformly applied to all residential property in the County." Appellant's counsel argued that the Cook County Assessor uniformly applied negative COVID-

19 “adjustments” to all Cook County residential properties in every neighborhood and every township in Cook County ranging from -7.5% to -15.4% depending on the type of dwelling and neighborhood code. Counsel further argues that the Illinois Constitutional Uniformity Clause mandates that the assessments shall be uniform within each class. Ill. Const. art. IX, Sec. 4(a)(b). Therefore, the appellant requested a reduction to the subject’s total assessment of $80,404 to reflect the subject’s pre-COVID-19 market value of $875,000 minus 8.11% County’s COVID-19 neighborhood adjustment thus reducing the subject’s adjusted market value to $804,040.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $96,981 was disclosed. The subject's assessment reflects a market value of $969,810 or $267.39 per square foot of living area, including land, using the Cook County Real Property Assessment Classification Ordinance level of assessments for Class 2 property of 10%. The subject has an improvement assessment of $83,747 or $23.09 per square foot of living area.

In support of the subject's assessment, the board of review submitted a grid analysis with information on four comparable properties that contain both sales and improvement assessment data. The comparables are described as 2-story dwellings of masonry or frame construction that range in size from 2,890 to 3,682 square feet of living area. The dwellings range in age from 7 to 47 years old. Each comparable features a full or partial basement, one with formal recreation room. Each dwelling also has central air conditioning, one or three fireplaces, and a 2-car, 2.5-car, or a 3-car garage. The comparables have lots of either 6,550 or 7,860 square feet of land area. Each comparable has the same neighborhood code as the subject property. The comparables sold from March 2018 to December 2020 for prices ranging from $777,500 to $1,200,000 or from $269.03 to $349.34 per square foot of living area, including land. The comparables have improvement assessments ranging from $69,970 to $107,141 or from $23.35 to $31.19 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant’s counsel submitted a brief arguing that the board of review failed to contest or to offer any evidence refuting the appellant’s contention of law argument pursuant to the Constitutional Uniformity Clause. Specifically, the appellant’s counsel contends that the board of review failed to address Cook County’s application of negative COVID-19 adjustment factors to pre-COVID market value of each residential property in every township in Cook County in order to determine the tax year 2020 (or post-COVID) fair market value. Consequently, the appellant’s counsel argues that the board of review concedes appellant’s argument on this issue. Furthermore, counsel argues that each board of review comparable is superior to the subject property is some characteristics and, therefore, should be afforded no weight.

Conclusion of Law

As a preliminary matter, the appellant raised a contention of law argument based on the Constitutional Uniformity Clause. When a contention of law is raised, the burden of proof is a preponderance of the evidence. (See 5 ILCS 100/10-15). After considering the entire record and arguments, the Property Tax Appeal Board finds the appellant did not meet this burden of proof and no reduction in the subject's assessment is warranted based on contention of law.

The appellant requests that the PTAB grant relief in part based on the COVID-19 pandemic. The PTAB distinguishes between a request for relief just because the pandemic occurred ("COVID Relief") and a request based on the pandemic's effect on market conditions or the income-producing capacity of a given property. The former would only require the appellant to show that the pandemic occurred, not that the pandemic affected or contributed to changes in the relevant market or other factors related to the property's assessment. The latter would require the appellant to meet its burden to provide substantive evidence or legal argument sufficient to challenge the property's assessment.

The Board has no statutory authority to reduce assessments solely because the pandemic occurred (i.e., to grant "COVID Relief"). However, if an appellant presents evidence demonstrating the pandemic resulted in or contributed to a reduction in the subject property's assessment, that may serve as the basis for a reduction. In this appeal, the appellant is making a constitutional uniformity argument based on Cook County's application of a negative "COVID-19 factor" to pre-COVID market value of each residential property in every township in Cook County. The appellant is not requesting relief solely based on the pandemic having occurred. Specifically, the appellant argues that he has "… proven the County overvalued the subject's pre-COVID market value." In other words, pre-2020 tax year market value. The Board disagrees with this assertion. As an administrative agency, the Property Tax Appeal Board only has the authority that the General Assembly confers on it by statute. *Spiel v. Property Tax Appeal Bd.*, 309 Ill. App. 3d 373, 378 (2d Dist. 1999). Consequently, to the extent that the PTAB acts outside its statutory authority, it acts without jurisdiction. See *Bd. of Educ. of City of Chicago v. Bd. of Trustees of Pub. Sch. Teachers' Pension & Ret. Fund of Chicago*, 395 Ill. App. 3d 735, 739–40 (1st Dist. 2009). The Board finds that it has no authority to determine the subject's "pre-COVID" market value, i.e., market value prior to the tax year 2020 that is the matter of this appeal. Additionally, there is no evidence in the record to suggest what the subject's "pre-COVID" market value was. Finally, appellant's appraisal report offers value opinion as of January 1, 2020 and not prior to that. Consequently, as the appellant's request for relief is predicated in part on the determination of the subject's market value prior to the tax year 2020, the Board finds that the appellant did not establish by a preponderance of the evidence that a reduction in the subject's assessment is warranted based on contention of law.

Next the appellant contends that 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); 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 based on overvaluation.

With regard to the overvaluation argument, the appellant submitted an appraisal report and the board of review submitted four comparable sales. The Board gave less weight to the conclusion of value contained in the appellant's appraisal report because the appraiser applied inconsistent adjustments to comparables #1 and #2 for dwelling size. These two comparables differ from the subject in dwelling size by virtually the same amount, yet comparable #1 was given an adjustment for dwelling size and comparable #2 was not given any adjustment. Additionally, the appraiser's

comparable #1 differs from the subject in design/story height, and the appraiser made no adjustments for the design difference. Lastly, the appraiser's report date of December 23, 2020 means that, at minimum, another similar property in close proximity to the subject which sold in November 2020 (board of review comparable #3) was not utilized or commented on by the appraiser. These factors undermine and detract from the credibility of the appraiser's value conclusion and raise a question with respect to the comparable selection methodology employed by the appraiser. Having examined the appraisal report and all sales data in the record, the Board finds that the appraiser's final conclusion of value is not a credible or reliable indicator of the subject's estimated market value as of January 1, 2020. The Board will, however, examine all seven sales in the record presented by the parties.

The Board gives less weight to appraisal comparable #1 based on its 3-story design which differs from the subject's 2-story dwelling. The Board also gives less weight to board of review comparables #1 and #4 based on their sale dates occurring in 2018 which is too remote in time relative to the January 1. 2020 assessment date at issue to accurately reflect the subject's market value as of the lien date at issue. Finally, the Board gives reduced weight to board of review comparable #2 based on its significantly older age relative to the subject dwelling. The Board finds the best evidence of market value in the record to be the appraisal comparables #2 and #3, along with board of review comparable #3 which are most similar to the subject in location, style, age, exterior construction, and some features. However, each of these best comparables has a smaller site size and a smaller dwelling size when compared to the subject. Moreover, board of review comparable #3 has an unfinished basement which differs from the subject's finished basement and suggests that upward adjustments should be considered to these best comparables in order to make them more equivalent to the subject. The best comparables in the record sold for prices ranging from $705,000 to $1,099,000 or from $196.65 to $306.64 per square foot of living area, including land. The subject's assessment reflects a market value of $969,810 or $267.39 per square foot of living area, including land, which is within the range established by the best comparable sales in this record both in terms of overall value and on a per square foot basis. Based on this record, the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction in the subject's assessment is not justified based on market value grounds.

Lastly, 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 appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted on the basis of uniformity.

The appellant submitted four equity comparables and the board of review submitted four comparables containing both sales and equity data. The Board gave less weight to board of review comparable #2 based on its significantly older age and smaller dwelling size relative to the subject dwelling. The Board finds the remaining comparables to be reasonably similar to the subject property in terms of location, design, dwelling size, and some features. However, all but one comparable is older in age and all but two comparables have unfinished basements unlike the

subject's finished basement. This suggests that upward adjustments are needed to these comparables for differences from the subject in order to make them more equivalent to the subject dwelling. These most similar equity comparables in the record have improvement assessments ranging from $75,184 to $107,141 or from $21.36 to $31.19 per square foot of living area. The subject's improvement assessment of $83,747 or $23.09 per square foot of living area falls within the range established by the most similar equity comparables in this record both in terms of overall improvement assessment and on a per square foot of living area basis.

Based on this record and after considering all the comparables submitted by the parties with emphasis on those properties with the most similar features and characteristics, 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 assessment is not justified on the basis of uniformity.

2024 RESIDENTIAL CHAPTER
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[Items Contained in Italics Indicate Arguments or Evidence in Opposition to the Appellant's claim]

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2024 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

2024 FARM CHAPTER

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APPELLANT:	**Troy Dimming**
DOCKET NUMBER:	**21-07021.001-F-1 thru 21-07021.002-F-1**
DATE DECIDED:	**March 2024**
COUNTY:	**LaSalle**
RESULT:	**Reduction**

The subject property consists of two unimproved wooded parcels containing a combined 8.21 acres located on the Vermilion River in Vermilion Township, LaSalle County.

The appellant appeared before the Property Tax Appeal Board and as the basis of the appeal contends that the subject parcels have been improperly classified as residential land and that the property should have remained classified and assessed as farmland. In support of this argument the appellant submitted a memorandum arguing that all or part of the subject parcels meet the definition of "farm," meet the definition of "open space," qualify for a vegetative filter strip assessment, or qualify for a non-clear cut assessment under the Property Tax Code.

At hearing, the appellant testified that the parcels had been used continuously as a farm for 28 years and that his father farmed the parcels for at least 62 years prior to the appellant farming the acreage. He testified that the parcels were part of a larger 29-acre farm, on which oak, walnut, and maple trees are harvested. The appellant stated that the parcels are in a flood plain, flooded 13 times in the last three years, and are located in the 100-year flood plain. The appellant testified that he had harvested approximately $5,000 worth of "deadfall" trees during the tax year in question, which was processed into boards and firewood, but did not sell any of the wood that year.[1] The appellant stated that he could not farm every year due to the length of time the trees take to mature, but that he removed product every year. The appellant testified that he only harvests whatever falls, and prefers not to harvest the live trees. The appellant testified he does not always sell the wood that is harvested, but that he did sell wood in 2019 and 2020. The appellant further testified that in addition to his harvesting of deadfall trees, he allows others to harvest trees, and allows hunting on the property.

Under questioning by the Administrative Law Judge, the appellant stated that the parcels are not under a forest management plan with the Illinois Department of Natural Resources and that he had never applied to have the parcels certified as vegetative filter strips.[2] The appellant also stated that he reports the profits as "other income" on his personal income tax return.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject parcels of $28,016. In its Notes on Appeal, the board of review offered to stipulate to a total assessment of $13,695 considering the subject's location in a flood plain.

[1] Initially, the appellant testified that he received $1,000 of income during 2021, but under cross examination stated that the $1,000 of income was received in 2019 and no income was generated in 2021.

[2] At the hearing, the appellant stated that he was not arguing the property qualified as vegetative filter strips despite that argument being a part of his submission.

Stephanie Kennedy, LaSalle County Supervisor of Assessments, appeared on behalf of the LaSalle County board of review. Ms. Kennedy argued that the subject did not meet the definitions of farm or open space under the Property Tax Code and did not qualify for a vegetative filter strip or non-clear cut assessment. Ms. Kennedy stated that there was no farming activity when the assessor and the board of review viewed the property. The board of review also submitted an email from Brian Grift, Director of the LaSalle County Land Use Department, which states the property "appears to be buildable for zoning," although it is entirely in the flood plain.

In written rebuttal, the appellant reiterated his arguments concerning the use of the property and submitted photographs of the wood that was harvested.

Conclusion of Law

The appellant appeals the assessments of the subject parcels under the category of a contention of law. The appellant seeks to have the entire parcels assessed as farmland. 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 did not meet this burden of proof and a reduction in the subject's assessment based on classification is not warranted.

Farm Assessment

Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

> 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…. (35 ILCS 200/1-60). [Emphasis added.]

Here, the primary issue is whether the disputed parcels are used solely for agricultural purposes as required by Section 1-60 of the Property Tax Code. The Board finds that in order to receive a preferential farmland assessment, the property at issue must meet this statutory definition of a "farm" as defined above in the Property Tax Code. It is the present use of the land that determines whether the land receives an agricultural assessment or a non-agricultural valuation. See Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill. App. 3d 799 (3rd Dist. 1999) and Santa Fe Land Improvement Co. v. Property Tax Appeal Board, 113 Ill. App. 3d 872 (3rd Dist. 1983). To qualify for an agricultural assessment, the land must be farmed at least two years preceding the date of assessment. (35ILCS 200/10-110). Based on the statutory

definition of a farm and controlling case law, the Property Tax Appeal Board finds the evidence and testimony shows the subject parcels do not qualify for a farmland classification and assessment.

The Board further finds the evidence in the record reveals the subject parcels have not been managed as a tree farm under Illinois law. The Board finds the sporadic harvesting of deadfall timber does not constitute an ongoing active tree farm. The Property Tax Appeal Board finds the Illinois Forestry Development Act (525 ILCS 15) provides some key elements to be considered when determining whether a taxpayer has a systematic plan to develop forest to grow and harvest timber on a methodical and regular basis. Sections 2(a) and 2(i) of the Illinois Forestry Development Act provide in part:

> "Acceptable forestry management practices" means preparation of a forestry management plan, site preparation, brush control, purchase of planting stock, planting, weed and pest control, fire control, fencing, fire management practices, timber stand improvement, timber harvest, and any other practices determined by the Department of Natural Resources to be essential to responsible timber management. (525 ILCS 15/2(a)).
>
> "Timber grower" means the owner, tenant, or operator of land in this State who has interest in, or is entitled to receive any part of the proceeds from, **the sale of timber** grown in this State and includes persons exercising authority to sell timber. (525 ILCS 15/2(i)). Emphasis added.

Furthermore, Section 5 of the Illinois Forestry Development Act provides in part:

> The proposed forestry management plan shall include a description of the land to be managed under the plan, a description of the types of timber to be grown, a projected harvest schedule, a description of the forestry management practices to be applied to the land, an estimation of the costs of such practices, plans for afforestation, plans for regeneration harvest and reforestation . . . . (525 ILCS 15/5).

The Board finds the above-referenced statute sets out key elements that are to be considered to determine whether a taxpayer has a systematic plan in place to develop a forest to grow and harvest timber on a methodical and regular basis to be used in the production of a forest crop. The Board finds the appellant presented no specific evidence that he complied with these enumerated requirements and testified that the parcels were not covered by a forest management plan with the Illinois Department of Natural Resources. The Board finds although the record contains evidence and testimony that wood was harvested from the parcels, the appellant's testimony lacked specificity as to whether he grew and harvested timber on a methodical and regular basis, instead removing fallen trees only. Further, the appellant gave inconsistent testimony regarding the amount of income he received, if any, from the wood that was harvested. Parcels used primarily for any purpose other than as a "farm" as defined in Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) are not entitled to an agricultural assessment. Senachwine Club v. Property Tax Appeal Board, 362 Ill.App.3d 566, 568 (3rd Dist. 2005).

Open Space Assessment

With respect to the appellant's contention that the subject parcels constitute open space, Section 10-147 of the Property Tax Code (35 ILCS 200/10-147) states:

> Former farm; open space. Beginning with the 1992 assessment year, the equalized assessed value of any tract of real property that has **not been used as a farm for 20 or more consecutive years** shall not be determined under Sections 10-110 through 10-140. If no other use is established, the tract shall be considered to be used for open space purposes and its valuation shall be determined under Sections 10-155 through 10-165. (35 ILCS 200/10-147).

Additionally, Section 10-155 of the Property Tax Code (35 ILCS 200/10-155) provides in part:

> Open space land; valuation. In all counties, in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made, **upon application under Section 10-160**, shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.
>
> Land is considered used for open space purposes if it is **more than 10 acres** in area and:
>
> (a) is actually and exclusively used for maintaining or enhancing natural or scenic resources,
>
> (b) protects air or streams or water supplies,
>
> (c) promotes conservation of soil, wetlands, beaches, or marshes, including ground cover or planted perennial grasses, trees and shrubs and other natural perennial growth, and including any body of water, whether man-made or natural,
>
> (d) conserves landscaped areas, such as public or private golf courses,
>
> (e) enhances the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, or
>
> (f) preserves historic sites…. (35 ILCS 200/10-155). [Emphasis added.]

There is no dispute that the parcels at issue in this appeal are a combined 8.21 acres and therefore do not meet the threshold requirement that the land be more than 10 acres in order to be considered open space. Second, the appellant did not demonstrate that the parcels were not farmed for the preceding 20 years, on the contrary, appellant claimed that the parcels had been continuously farmed for at least 90 years. Third, the record is devoid of any evidence concerning the protection of waterways, promotion of conservation, conservation of landscaped areas, or enhancement of other open spaces. Fourth, the appellant did not submit any evidence that the land had been used for open space purposes for the three preceding years. Finally, the appellant did not submit any evidence regarding the filing of a verified application requesting an open space designation as required by Section 10-160 of the Code (35 ILCS 200/10-160). Based on the foregoing, the Board finds the subject parcels do not qualify for a special assessment as open space.

Vegetative Filter Strip Assessment

With regard to the appellant's argument that the subject parcels qualify as vegetative filter strips, Section 10-152 of the Property Tax Code provides in part:

> (a) In counties with less than 3,000,000 inhabitants, any land (i) that is located between a farm field and an area to be protected, including but not limited to surface water, a stream, a river, or a sinkhole and (ii) that meets the requirements of subsection (b) of this Section shall be considered a "vegetative filter strip" and valued at 1/6th of its productivity index equalized assessed value as cropland. In counties with 3,000,000 or more inhabitants, the land shall be valued at the lesser of either (i) 16% of the fair cash value of the farmland estimated at the price it would bring at a fair, voluntary sale for use by the buyer as a farm as defined in Section 1-60 or (ii) 90% of the 1983 average equalized assessed value per acre certified by the Department of Revenue.
> (b) Vegetative filter strips shall meet the standards and specifications set forth in the Natural Resources Conservation Service Technical Guide and shall contain vegetation that (i) has a dense top growth; (ii) forms a uniform ground cover; (iii) has a heavy fibrous root system; and (iv) tolerates pesticides used in the farm field.
> (c) The county's soil and water conservation district shall assist the taxpayer in completing a uniform certified document as prescribed by the Department of Revenue in cooperation with the Association of Illinois Soil and Water Conservation Districts that certifies (i) that the property meets the requirements established under this Section for vegetative filter strips and (ii) the acreage or square footage of property that qualifies for assessment as a vegetative filter strip. The document shall be filed by the applicant with the Chief County Assessment Officer. The Chief County Assessment Officer shall promulgate rules concerning the filing of the document. The soil and water conservation district shall create a conservation plan for the creation of the filter strip. The plan shall be kept on file in the soil and water conservation district office. Nothing in this Section shall be construed to require any taxpayer to have vegetative filter strips. (35 ILCS 200/10-152).

The Board finds the appellant presented no evidence that the subject parcels meet the requirements of the above statute or that he complied with the statutory certification requirements. In fact, the appellant testified that he had not applied for the vegetative filter strip assessment. Based on the foregoing, the Board finds the subject parcels do not qualify for a special assessment as vegetative filter strips.

Non-clear cut Assessment

The appellant also argues that the subject parcels should qualify as non-clear cut land pursuant to Section 10-153 of the Property Tax Code. Section 10-153 of the Property Tax Code states:

> Non-clear cut assessment. Land that (i) is not located in a unit of local government with a population greater than 500,000, (ii) is located within 15 yards of waters listed by the Department of Natural Resources under Section 5 of the Rivers, Lakes,

> and Streams Act as navigable, and (iii) has not been clear cut of trees, as defined in Section 29a of the Rivers, Lakes, and Streams Act, shall be valued at 1/12th of its productivity index equalized assessed value as cropland. (35 ILCS 200/10-153).

The Board finds, with regard to the appellant's argument that the subject parcels should qualify for a special assessment as non-clear cut land, that Section 10-153 of the Property Tax Code applies to farmland, open space, and forestry management plans. The Board finds the appellant has failed to show that Section 10-153 of the Code is applicable to the subject. The appellant offered no evidence to indicate the subject parcels qualify as open space or are maintained under a forestry management plan. The Board finds the appellant has failed to show the subject parcels should receive a farm assessment. Therefore, the Board finds that any preferential assessment contained in Section 10-153 of the Code is not applicable based on the evidence and testimony in this record.

The appellant testified and submitted evidence regarding the subject parcels' inclusion in a flood plain. The board of review, in considering the parcels' location in the flood plain, offered to stipulate to a total assessment of $13,695. Based on the record evidence and testimony, the Board finds the proposed assessment reduction presented by the board of review is appropriate.

APPELLANT:	**John Hanno**
DOCKET NUMBER:	**21-06088.001-F-1**
DATE DECIDED:	**September 2024**
COUNTY:	**Will**
RESULT:	**Reduction**

The parties appeared before the Property Tax Appeal Board on July 24, 2024 for a hearing at the Will County Office Building in Joliet pursuant to prior written notice dated May 1, 2024. Appearing was the appellant, John Hanno, and appearing on behalf of the Will County Board of Review was John Trowbridge, Deputy Supervisor of Assessments.[1]

The subject property consists of 12.59 of acres of land area located in Monee, Monee Township, Will County, 10.44 acres of which are enrolled in a Conservation Stewardship Program ("CSP") and 0.40 of an acre of which is assessed as cropland, both of which are not disputed by the parties. The parties dispute the assessment of the remaining 1.75 acres of the subject's land, which consists of approximately 1.5 acres with Swygert silty soil code 91B2, PI of 104, and adjusted PI of 95, and approximately 0.25 of an acre with Bryce silty soil code 235A and a PI of 107 as described in the soil data sheet presented by the board of review.[2]

The subject property is improved with a main building of frame exterior construction containing first floor area of 1,924 square feet of building area[3] and unfinished second floor area of 1,924 square feet of building area. Features of the main building include a concrete slab foundation and a 2-story deck with 444 square feet of building area on each level. The subject property is also improved with a 1-story 576 square foot building.

Appellant's Evidence

The appellant seeks a farmland classification as a basis of the appeal, contending that the disputed 1.75 acres should be assessed as farmland and the subject's improvements should be assessed as farm buildings. The appellant also contends assessment inequity with respect to the subject's land and improvements as an additional basis of the appeal.

In support of the farmland and farm building classification argument, the appellant submitted briefs and affidavits contending approximately 10 acres of the subject's land is in a CSP, with the remaining land being used to grow vegetables, fruits, herbs, and plants. The appellant contended the first floor of the 37 x 52 square foot (1,924 square foot) main building, including a 37 x 22

[1] This appeal was consolidated with Docket No. 22-02226, which concerns the same property and parties, for the purposes of hearing.
[2] At hearing, the appellant stated he did not dispute the soil data for the subject property, but disputed the classification as non-farmland.
[3] The evidence differs regarding the building sizes. The appellant submitted a drawing of the subject improvements with measurements and the board of review submitted the subject's property record card with a sketch and measurements. In a brief, the appellant referenced building sizes consistent with the property record card. The Board finds the best evidence of building size is found in the property record card, which appears to have been accepted by the appellant in a brief.

square foot (814 square foot) attached garage, is used for storage of farm equipment, farm records, tools, and supplies; for starting seeds; and for washing vegetables. The appellant asserted the second level of the main building is unused and unfinished and is sealed off from the rest of the building due to exposed foam insulation. The appellant confirmed he does not reside at the subject property, explaining he intended to construct the main building as his residence, but could not obtain financing to complete the building for residential use. The appellant further explained the main building has no heat, septic system, kitchen, or bathroom and has not received an occupancy permit. The appellant stated the 24 x 24 square foot (576 square foot) small building is used to store farm equipment and tools and is zoned agricultural. The appellant contended the subject property has only been used for agriculture since it was built in 2017 and has never had a residential use. The appellant asserted the only improvement to the subject property within the last three years was the installation of a leased solar energy system.

The appellant presented photographs of the subject property. Exterior photographs dated in 2022 depict signage advertising the farm; rows of plants described as "Vegetable Garden"; cover crop; soil, compost, and mulch piles; well and hydrant; first floor deck to the main building (described as used for potted plant growing); potted plants growing alongside the main building; and fruit bushes alongside the main building. Interior photographs depict storage of equipment and supplies, including mowers, tillers, air compressor, propane heaters, grader, bedding straw, records and books, planting tables, seed starting supplies, and grow lights. Photographs of the second level of the main building depict a plywood ramp/no stairs, exposed framing with foam insulation, large windows and glass doors next to a second level deck.

The appellant submitted a sketch of the subject property labeled with a 6,650 square foot "homesite area" with a "house" and "lawn"; a "driveway"; a vegetable and fruit area; a tree, compost, and soil area; an "AG" garage with an adjacent sales area surrounded by trees and plants; and conservation and flood areas. The appellant explained in the brief that the agricultural areas total 1.1 acres, or 47,250 square feet of land area and includes areas used for growing fruits and vegetables, growing trees and plants, the small building, a covered sales area, and soil/manure and composting areas.

The appellant also presented a schematic drawing for the first floor of the main building with areas labeled as Room 1 (Family Rm. & Kitchen/Dinette, Room 2 (Bedroom & Bath), and Garage.

At hearing, the appellant testified that the subject property is used to grow vegetables, flowers, fruits, shrubs, and trees, including grape vines, herbs, lettuces, and greens. The appellant stated he recently received a grant to build a high tunnel which will help to protect plants from the wind. The appellant testified he uses the main building to start seeds and plants and uses both buildings to store farm equipment and tools, including a well tank. The appellant asserted the smaller building received a farm building assessment for the 2022 tax year, but not for the 2021 or 2023 tax years despite no change in use during this time period. The appellant testified he has farm income from the farming activities at the subject property.

The appellant testified the subject has no living area with the subject's main building having no bedrooms, bathrooms, kitchen, heating, central air conditioning, or septic. The appellant further testified the second floor is unfinished, unused, has exposed spray foam insulation, and is sealed off from the rest of the structure with a steel door. The appellant explained he intended to use the

main building as a residence, but he was unable to obtain financing to construct living area. The appellant emphasized he has only ever used the subject property for farm use and never as a residence.

On cross examination, Trowbridge presented Hearing Exhibit #1, which the appellant identified as photographs of the subject property in winter that depict solar panels installed in 2019 or 2020.[4] Trowbridge then questioned the appellant regarding a schematic drawing of the main building submitted with the appellant's evidence, which the appellant identified as the original building plan that was submitted for the purpose of explaining the uses of the different areas of the main building, such as plant and seed starting in two rooms and equipment storage in the garage area. The appellant confirmed the main building has electricity, drywall on the first floor, residential exterior light fixtures, garage doors, and a security system. With regard to the comparables, the appellant was uncertain whether any farm building comparables have insulation or garage doors.[5]

On questioning by the Administrative Law Judge, the appellant testified the small building was built in 2015 and the main building was constructed in 2017. The appellant further testified farming activities at the subject property have been continuous since that time. The appellant also stated the subject was farmland prior to his purchase. The appellant testified the subject buildings are not used for any non-farm purpose or to store non-farm items, however, the appellant said he stores a bicycle he uses to access the property.

In support of the assessment inequity argument, the appellant submitted information on fifteen farm building comparables located in Monee. The comparables are improved with one or more farm buildings ranging in total combined sizes from 576 to 13,733 square feet of building area and have farm building assessments ranging from $2,409 to $23,814. The appellant presented schematic drawings of the improvements for each comparable.

The appellant also submitted information on twenty-four farmland comparables located in Monee or Crete. The comparables range in size from 5 to 26.80 acres of land and have farmland assessments ranging from $963 to $7,649. Based on these comparables, the appellant concluded an average assessment of $270 per acre.

At hearing, the appellant argued the board of review's comparables are finished residential properties without farmland or farm buildings unlike the subject. The appellant contended the board of review's comparables have basements, bedrooms, bathrooms, kitchens, paved driveways, 2-story living area, central air conditioning, and fireplaces, none of which are features of the subject. The appellant testified the properties surrounding the subject are farmland.

[4] Hearing Exhibit #1 was presented as a demonstrative exhibit to identify the location of the solar panels, which are not at issue in this appeal. Thus, the Board gives little weight to this exhibit and the testimony relating thereto.

[5] Trowbridge next presented Hearing Exhibit #2 as a demonstrative exhibit; however, based on the board of review's questioning relating to this exhibit, the Board finds the board of review sought to offer this exhibit to refute the photographs submitted by the appellant of the subject property. Consequently, the Board gives no weight to this exhibit as it was not submitted with the board of review's evidence. Following this questioning, the appellant sought to introduce copies of tax returns which were not submitted with the appellant's evidence or as timely rebuttal evidence. The Administrative Law Judge denied the appellant's request to introduce this new evidence at hearing. (86 Ill. Admin. Code § 1910.67(k).

Based on this evidence, the appellant requested a farmland classification for all of the subject's land and a farm building classification for the subject's two buildings. In the appeal petition, the appellant requested a preferential farmland assessment of $3,399 (calculated as the average farmland assessment of the comparables of $270 x the subject's 12.59 acres). However, at hearing, the appellant clarified he does not dispute the $0 assessment for the 10.44 acres in CSP, and does not dispute the assessment of $87 for the 0.40 of an acre already receiving a preferential farmland assessment, but seeks a preferential farmland assessment for the subject's remaining land that is classified as a homesite. The appellant further clarified at hearing that he does not dispute the soil data for the subject presented with the board of review's evidence. With regard to the improvements, the appellant requested in the petition an assessment of $5,925 for the subject's two buildings as farm buildings.

Board of Review's Evidence

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $76,386. The subject property has a farmland assessment of $87, a homesite land assessment of $26,484, and a residence assessment of $49,815.

In support of its contention of the correct assessment the board of review submitted a letter from the township assessor contending the subject is a residential property, which has a partial assessment due to construction not yet being complete. The township assessor presented cost schedules to support the subject's assessment. The township assessor agreed 10.44 acres of land area is in a conservation program and that 0.40 of an acre has a preferential farmland assessment. The township assessor presented a soil calculation report[6] indicating 0.33 of an acre is assessed as cropland (Swygert silty soil code 91B2, with a PI 104 and adjusted PI 95), 0.07 of an acre is assessed as other farmland (Swygert silty soil code 91B2, with a PI 104 and adjusted PI 95), 10.42 acres are assessed as conservation stewardship land (with a variety of soil types), and 1.77 acres are assessed as a homesite (0.25 of an acre of Bryce silty soil code 235A with a PI 107 and 1.51 acres of Swygert silty soil code 91B2, with a PI 104 and adjusted PI 95).

At hearing, the board of review argued the subject property does not meet the definition of a farm pursuant to Section 1-60 of the Property Tax Code because the farming activities are incidental to the primary use of the property. The board of review contended the highest and best use of the subject is residential use.

The board of review called its witness, Iris Shaw, who testified she has been a Deputy Supervisor of Assessments since 2013 and has assessed agricultural properties. Shaw stated she is familiar with the subject property and its assessment.

With regard to the subject's improvements, Shaw testified she reviewed the photographs submitted by the appellant and concluded the subject's buildings do not look like farm buildings. Shaw stated she has not seen any other farm buildings with windows and a second story like the subject. Having

[6] The Board notes the per acre EAV and assessment amounts appear to be for the 2022 tax year based on the certified farmland values for assessment year 2022 published by the Illinois Department of Revenue.

determined the subject's buildings do not contribute to a farm and also are not commercial or industrial buildings, Shaw concluded the subject's buildings must be classified as residential.

With regard to the subject's land, the witness testified she concluded the primary use of the subject's land is not farm use as defined in Section 1-60 of the Property Tax Code. Shaw did not dispute the farming activities described by the appellant, but classified these activities as hobby farming. Shaw agreed on direct examination that the appellant used residential terminology to describe the subject property and sought financing to build a residential structure.

On cross examination, Shaw testified she did not visit the subject property or discuss the subject's assessment with the township assessor. The witness explained her conclusion was based on a review of the appellant's photographs and she did not believe it was necessary to visit the property.

On questioning by the Administrative Law Judge regarding the subject's land, Shaw explained the majority of the subject's land is in a CSP and is not farmland. Because the majority of the subject's land is not farmland, Shaw concluded the subject's primary use is not a farm. Shaw did not dispute the appellant's contention that the subject property is not habitable or that the appellant does not reside there. Shaw asserted that property must be classified, and if it cannot be classified as farm, commercial, or industrial, it must be residential. Shaw acknowledged that Section 1-60 of the Property Tax Code concerns the actual use of a property as a farm rather than how a property should be used. With regard to the calculation of acreage in each land classification depicted the soil data sheet, Shaw explained the acreage is mapped and she attempts to get as close as possible to the approved CSP acreage, thus, the data sheet depicts 10.42 acres in CSP rather than the approved 10.44 acres.

In considering the classification of the subject's buildings, Shaw stated she could not identify any items in the main building based on the photographs that contribute to a farm. Shaw stated she understood the township assessor inspected the subject property after making a request to inspect, but Shaw said she did not discuss this inspection or the items inside the subject buildings with the township assessor.

On re-direct examination, Shaw agreed that homeowners may have mowers and garden tools in their garages. Shaw stated she did not see any items in the appellant's photographs that single-family homeowners would not have and that would be exclusive to a farm.

On re-cross examination, Shaw testified she did not identify the items depicted in the photographs as farm equipment and supplies. The witness acknowledged that some of the items were unidentifiable to her and she did not do any investigation to determine what those items are. The appellant asked Shaw if she saw a grader was being stored at the property, but Shaw testified she did not recall seeing that item and is unsure what a grader is.[7]

In response to the appellant's assessment inequity argument, the board of review submitted information on four equity comparables located within the same assessment neighborhood code as

[7] The appellant sought to question the witness regarding his tax returns, but the Administrative Law Judge did not allow this questioning as these documents are not in the record and were not timely submitted by either party as evidence or rebuttal evidence in this appeal. 86 Ill. Admin. Code § 1910.67(k).

the subject. The comparables have sites ranging in size from 109,771 to 348,480 square feet, or from 2.52 to 8 acres, of land area and are improved with 2-story or part 1-story and part 2-story homes of masonry or frame and masonry exterior construction ranging in size from 2,484 to 4,669 square feet of living area. The dwellings were built from 1978 to 2007. Each home has central air conditioning, a basement, and a garage ranging in size from 672 to 1,144 square feet of building area. Three homes each have a fireplace. The comparables have land assessments ranging from $21,835 to $32,674 or from $0.09 to $0.22 per square foot of land area and have improvement assessments ranging from $60,120 to $170,331 or from $23.09 to $36.48 per square foot of living area. It was reported the subject has a residence assessment of $49,815 or $16.42 per square foot of living area (based on a dwelling size of 3,304 square feet).

In closing argument, the board of review contended the appellant describes the subject with residential property terminology and intended to build a residence. The board of review further contended the subject buildings have components that are not common to farm buildings such as an asphalt roof, solar panels, and wall outlets. The board of review reiterated the highest and best use of the property is not as a farm building. The board of review argued the storage of mowers and other equipment and supplies is not indicative of farm use.

Based on this evidence, the board of review offered to classify and assess the subject's small building as a farm building, but requested the remaining assessment classifications and their assessments be sustained.[8]

Appellant's Rebuttal

At hearing, in rebuttal, the appellant argued that contrary to Shaw's testimony that the items inside the main building are not farm equipment and supplies, a single-family residence would not have two rooms filled with five or six planting tables like the subject or a garage filled with tools and equipment, including a 6 foot grader that needs to be used with a tractor, like the subject. The appellant further argued the board of review's witness made conclusions about the subject's assessment without ever having visited the subject property.

Conclusion of Law

Classification

The appellant's argument is based in part 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 appellant 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

[8] At hearing, the Administrative Law Judge ordered the board of review to produce within 30 days of the hearing date the assessment amounts for the subject buildings if classified and assessed as farm buildings, which were timely provided by email to the Administrative Law Judge and the appellant.

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 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).

Farmland is entitled to a preferential assessment under the Property Tax Code. Section 10-125 of the Property Tax Code (35 ILCS 200/10-125) 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. Section 10-125(a) provides that "Cropland shall be assessed in accordance with the equalized assessed value of its soil productivity index as certified by the Department and shall be debased to take into account factors including, but not limited to, slope, drainage, ponding, flooding, and field size and shape." Section 10-125(c) provides that: "Other farmland shall be assessed at 1/6 of its debased productivity index equalized assessed value as cropland."

For farm buildings, Section 10-140 of the Property Tax Code (35 ILCS 200/10-140) provides that: "Improvements other than the dwelling, appurtenant structures and site, including, but not limited to, roadside stands and buildings used for storing and protecting farm machinery and equipment, for housing livestock or poultry, or for storing feed, grain or any substance that contributes to or is a product of the farm, shall have an equalized assessed value of 33 1/3% of their value, based upon the current use of those buildings and their contribution to the productivity of the farm."

Based on the statutory definition of a farm, the Board finds the evidence clearly shows the only use of the subject property is a farm use. The Board finds the testimony, photographs, and other documentation in the record demonstrate the appellant grows and harvests vegetable and fruit crops and cultivates other plants on the subject property and uses the subject's buildings for

activities that contribute to the farm, such as starting seeds, washing vegetables, and storing farm equipment and supplies. The Board finds the record evidence further demonstrates these farming activities have been continuous at the subject property for more than two years prior to the assessment date and comply with the two year farm use requirement of Section 10-110. Moreover, the Board finds the board of review did not present any evidence to refute the farming activities described by the appellant.

The Board gave little weight to the board of review's contention that the farming activities at the subject property are incidental to a primary residence use. The Board finds the testimony, photographs, and other documentation in the record demonstrate the buildings are uninhabitable as a residence and have never been occupied as a residence. Although the appellant may have originally intended to construct a residence, the Board rejects the board of review's contention that intent or the board of review's suggested highest and best use should be given more weight than the subject's actual use as a farm.

The Board gave little weight to Shaw's conclusion regarding the subject's primary use. In reaching her conclusion, Shaw did not visit the subject property, did not consult with the township assessor regarding the township assessor's inspection of the subject property, and based her conclusion solely on photographs without further investigation of items stored at the subject property, many of which were unfamiliar to her. With regard to the subject's land, Shaw dismissed the appellant's farming activities as hobby farming and relied instead on a default determination that the subject is residential because it could not be classified as a farm due to a majority of the land being assessed as CSP land. To the contrary, the Board finds Section 1-60 defines a farm based on its use, not based on the size of its acreage. In fact, 0.40 of an acre of the subject's land is already assessed as farmland.

With regard to the subject's improvements, the Board finds Shaw's reliance on the exterior appearance of the subject's buildings to be misplaced. The Board finds Section 10-140 defines farm buildings by their current use and contribution to a farm, not by their looks, potential use, highest and best use, or descriptive nomenclature as contended by Shaw and/or the board of review.

Based on this evidence, the Board finds the disputed 1.75 acres of the subject's land are entitled to classification as farmland and the subject's buildings are entitled to classification as farm buildings. The Board finds the evidence supports the current assessment of the 10.44 acres in CSP and the current assessment of the 0.40 of an acre as farmland, both of which were not disputed by the parties. Accordingly, the Board finds the subject's assessment as established by the board of review is incorrect and a reduction in the subject's assessment is warranted.

With regard to the subject's assessment as farmland, the Board finds a total of 1.1 acres is to be classified as cropland consistent with the appellant's request and the remaining disputed 1.05 acres is to be assessed as other farmland. Based on the soil data presented by the board of review and the certified farmland values for 2021 published by the Illinois Department of Revenue,[9] the subject's total farmland assessment is $334, which includes $87 for the undisputed 0.40 of an acre.

[9] Calculated as $89 (0.25 of an acre with PI 107 at EAV $355.68) + $114 (0.45 acres with PI 95 at EAV $253.59) + $44 (1/6 of 0.07 of an acre with PI 95 at EAV $253.59) + $87 for the undisputed 0.40 of an acre.

Based on farm building cost information provided by the board of review, the main building would have a cost of $61,384.73, a cost for the 2-level deck of $1,964.60 based on 517 square feet per level at a cost of $1.90 per square foot, and deprecation of $2,111.64 based on an age of 1 year old and an economic life of 30 years. The Board has revised this cost calculation to reduce the cost of the deck to $844 due to the first level having a farm use and the second level being completely unused, resulting in a total cost for the main building of $62,228.33. The Board has further revised this cost calculation for depreciation based on the 4 year old actual age of this building, or $8,297.11, resulting in a revised depreciated cost of $53,931.22 and an assessed value of $17,975.

The board of review presented an assessed value for the small building of $3,844, which would reflect a depreciated value of $11,533.15 using a building age of 1 year old, an economic life of 30 years, and an undepreciated cost of $11,931.67. The Board has revised this cost calculation for depreciation based on the 6 year old actual age of this building, or $2,386.33, resulting in a revised depreciated cost of $9,545.34 and an assessed value of $3,181.46.

Based on these revised calculations, the subject's total farm building assessment would be $21,157.

Assessment Inequity

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

With respect to land assessment inequity, and having determined that the balance of the subject's land not enrolled in a CSP should be classified as farmland, the Board finds the presentation of comparables by the parties does not establish whether the subject's land is entitled to a preferential farmland assessment. As discussed above, farmland is assessed according to its productivity pursuant to Section 10-125 of the Property Tax Code. The Board finds it is not appropriate to compare preferential farmland assessments, as these properties may concern different soil types, productivity, and adjustments, or to compare a preferential farmland assessment to the land assessments of other types of properties, like the board of review's residential land comparables, which are not assessed pursuant to Section 10-125. Based on this evidence, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land after being classified as farmland herein was inequitably assessed and no further reduction in the subject's land assessment is warranted.

With respect to improvement assessment inequity, the appellant presented fifteen farm building comparables and the board of review presented four residence comparables. The Board gives no weight to the board of review's comparables, as the subject has no residence as discussed above. The Board gives less weight to the appellant's comparables #2 through #5, #7, #8, #9, #11, #13,

and #15, which are less similar to the subject in combined building size than the other comparables in this record.

The Board finds the best evidence of farm building assessment equity to be the appellant's comparables #1, #6, #10, #12, and #14, which are located in Monee like the subject and are more similar to the subject's combined building size of 2,500 square feet (1,924 + 576). These comparables each have combined farm building sizes ranging from to 1,629 to 3,810 square feet and have a farm building assessments ranging from $5,480 to $8,696 or from $2.28 to $3.73 per square foot of building area. The subject's farm building assessment as determined herein of $21,157 or $8.46 per square foot of building area falls above the best comparables in this record and appears to be excessive. Based on this record, and after considering appropriate adjustments to the best comparables for differences from the subject, the Board finds the appellant demonstrated with clear and convincing evidence that the subject's farm buildings were inequitably assessed and a reduction in the subject's farm building assessment for assessment inequity is justified.

APPELLANT:	**Richard & Brenda Humphrey**
DOCKET NUMBER:	**18-03761.001-F-1**
DATE DECIDED:	**October 2024**
COUNTY:	**Lee**
RESULT:	**No Change/Reduction**[1]

Preliminary Matters

Prior to hearing, the Administrative Law Judge (ALJ) ordered production of the farm outbuilding property record cards for the subject and the comparables presented by both parties. At hearing, these six Farm Building Listing cards were marked consecutively as Hearing Exhibit 1 through 6 for reference, beginning with the subject, the appellants' three comparables and concluding with board of review farm comparables #2 and #4.

Appellants' Motion to Strike

As part of the appellants' written rebuttal, the appellants requested that the board of review evidence be stricken alleging it was not timely filed. The appellants contend that on October 10, 2019, a 90-day extension was issued, but the evidence was received on January 13, 2020, making the filing untimely.

The Property Tax Appeal Board finds that by letter dated October 10, 2019, the Lee County Board of Review was granted until January 8, 2020 to submit its evidence or a written request for an extension of time to do so. As depicted on the Board of Review – Notes on Appeal submission was stamped by agency staff as "postmarked" on January 7, 2020 and "received" in the Springfield office on January 13, 2020. Furthermore, records of the Property Tax Appeal Board include a record of the mailing envelope with the postmark. Pursuant to the Board's procedural rules, evidence sent to the Property Tax Appeal Board by United States Mail is considered filed as of the postmark date. (86 Ill.Admin.Code §1910.25(b)(1)). Therefore, the appellants' motion to strike the board of review evidence as having been untimely filed is denied.

Board of Review's Motion to Strike

At the commencement of hearing, the Lee County Board of Review moved to strike sections 2 through 5 of the appellants' written rebuttal asserting these provisions of the rebuttal were an effort to submit new evidence "disguised as rebuttal" in violation of the Board's procedural rule section 1910.66(c) (86 Ill.Admin.Code §1910.66(c)).

The Property Tax Appeal Board has examined the appellants' three-page rebuttal brief, focusing on sections 2 through 5. The Board hereby **strikes** the following assertion in section 3 as being "new evidence submitted in the guise of rebuttal evidence":

[1] A reduction is issued as described herein for the Farm Buildings or Outbuildings only.

> Subject's property has 3 structures of no use to the farm and are in disrepair. There is a smaller machine shed structure used for lawn and garden equipment storage and a portable livestock building purchased around 2013 for $3750 plus delivery of $2.50 per loaded mile.

The motion to strike is denied as to the remaining portions of sections 2 through 5. In particular, the appellants' photographs of the interior and exterior of the subject dwelling are in direct response to refute the board of review characterization of the subject dwelling condition as "excellent." Furthermore, the appellants' reference Section 10-20 of the Property Tax Code (35 ILCS 200/10-20) for the proposition that siding, roof and window replacement is mere maintenance, which the appellants argue should not increase the assessed value of the dwelling, is likewise a response to the board of review evidence. Furthermore, citing a provision of the Property Tax Code is also acceptable rebuttal and a request to strike the same is denied.

The motion to strike is **granted** as to the appellants' comparison and contrasting of the subject and comparables' changing assessments in various tax years with presentations of property record cards in Exhibit C1 – C4 as this data is not appropriate rebuttal evidence as it is not responsive to evidence provided by the board of review.

Findings of Fact

The subject parcel of 2.6-acres is improved, in part, with a two-story single-family dwelling of frame construction with 3,328 square feet of living area. Features of the home include a partial unfinished basement, and central air conditioning. The dwelling was constructed in 1926. An attached two-car garage was constructed in 1996, at which time a 1,440 square foot addition to the home was constructed. The property has a 1.23-acre (53,579 square foot) homesite and 1.4-acres of farmland. There are eight farm-related structures itemized by the assessing officials. The subject property is located in Dixon, South Dixon Township, Lee County.

The appellants appeared before the Property Tax Appeal Board contending assessment inequity as basis of this appeal, challenging the assessments of the homesite, the residence and the eight farm outbuildings. In support of the inequity contention, the appellants submitted information on three farm-improved comparables in the Section VI grid analysis of the Farm Appeal petition. As part of the board of review Exhibit F, the appellants' three comparables were reiterated with additional details. Based on the evidence of record, the appellants' comparables are located from 1 to 4.5 miles from the subject and are located in either Amboy or Dixon.

1. Homesite

The comparables have homesites of 18,731, 182,516 and 31,363 square feet of land area, respectively. The homesite land assessments of these comparables are $2,255, $13,070 and $3,146 or $0.12, $0.07 and $0.10 per square foot of homesite land area, respectively. The subject homesite of 53,579 square feet has a homesite land assessment of $4,538 or $0.08 per square foot of homesite land area. Based on the foregoing evidence, the appellants requested a reduced homesite assessment of $3,531 or $.07 per square foot of homesite land area.

At the beginning of the hearing and in light of the foregoing evidence on equity, Mr. Humphrey withdrew the appeal as to the homesite assessment inequity argument.

2. Dwelling

At hearing, Mr. Humphrey stated he sought to present the best available comparables in his rural community to his home, recognizing the difficulty in finding suitable comparables. He contends, however, that these three homes are representative. Next, Mr. Humphrey testified regarding his analysis of property record cards beginning in 1996 when the addition to the subject dwelling was fully assessed and compared the subject's assessment to the assessments of his three comparable homes (in part, data set forth in Rebuttal Exhibits C1-C4).[2] The appellant argued that while the subject and comparables have each had increasing assessments on their homes, the comparables have not had the same level of increases as the subject has had, even though the subject has not been further improved or remodeled. As noted previously, the Board finds, in part, this material and argument made by the appellants to be new data purporting to be related to the lack of assessment equity argument. However, this comparison and contrasting of the subject's assessment with the comparable properties in terms of "rate of increase" was not presented by the appellants in the original appeal submission and cannot now be presented as rebuttal evidence nor at hearing, as it is new evidence.

The appellants' comparables are improved with two-story dwellings of frame or vinyl siding exterior construction. The homes were built in 1861, 1901 and 1886, respectively, with reported weighted ages of 1874, 1901 and 1886, respectively. The subject was built in 1926 with a 1,440 square foot addition and garage constructed in 1996. The subject has a reported weighted age of 1956 and is deemed by the assessing officials to be in excellent condition. The comparables are deemed to be in either good or average condition by the assessing officials. The comparable homes range in size from 2,952 to 3,628 square feet of living area. Each comparable has a basement and two comparables each have a garage. The comparables have improvement assessments ranging from $32,877 to $38,820 or from $10.00 to $12.33 per square foot of living area. The subject has an improvement assessment of $58,344 or $17.53 per square foot of living area.

Mr. Humphrey testified that while the subject dwelling was improved with new siding and windows, the addition that was built was in 1996. The appellants further contend that mere repairs and maintenance of the dwelling should not change its value.

Based on this evidence, the appellants requested a reduced improvement assessment for the subject dwelling of $36,650 or $11.01 per square foot of living area.

[2] The appellants are attempting, in part, to demonstrate the subject's assessment was inequitable because of the increases in its assessment as compared to other properties. The Board finds this type of analysis is not an accurate measurement nor a persuasive indicator to demonstrate assessment inequity by clear and convincing evidence. The Board finds rising or falling assessments from year to year do not indicate whether a particular property is inequitably assessed. The assessment methodology and actual assessments together with their salient characteristics of properties must be compared and analyzed to determine whether uniformity of assessments exists. Furthermore, the Board finds assessors and boards of review are required by the Property Tax Code to revise and correct real property assessments, annually, if necessary, that reflect fair market value, maintain uniformity of assessments, and are fair and just. This may result in many properties having increased or decreased assessments from year to year of varying amounts depending on prevailing market conditions and prior year's assessments.

3. Farm buildings

As depicted in Hearing Exhibit 1,[3] the Farm Building Listing for the subject, the eight farm-related outbuilding improvements which the appellants contend have been inequitably assessed are summarized as follows:

Net Condition %	*Description*	*Age*	*Size/Bushel*	*Full Value*
Unsound	Pump houses	1931	48	20
Good	(#4) Shed Concrete floor	1941 remodel 2012	1,440	5,000
Fair	Shed Concrete floor	1931	216	295
Fair	Shed Concrete floor	1936	540	160
Unsound	Wood crib	1931	896	300
Fair	Pump houses	1941	49	90
18% deprec	(#10) Pole frame Dirt floor	2007	1,088	11,152
16% deprec	(#11) open sided pole bldg.	2008	456	4,972[4]

The subject's total eight "full values" or 'market values' add up to $21,989, which are then assessed at one-third of market value resulting in the subject's combined 2018 outbuilding assessment of $7,330. (35 ILCS 200/10-140)

From Hearing Exhibit 1, Mr. Humphrey testified that Item #4, the 1941 shed, was not "remodeled" in 2012, but was merely painted and a new roof added, which he characterized as maintenance. He further stated this was about the only maintenance that has been done to the farm buildings. Item #4 was characterized by Mr. Humphrey as a "garage" that is not used currently. He noted the buildings were present when the property was purchased. He further argued that there is no depreciation shown and there is "nothing" to warrant a $5,000 value, particularly when considering the comparable farm buildings that the appellants have presented.

On cross-examination, Mr. Humphrey was questioned about the newer roof and two "newer" overhead doors on the shed identified as Item #4. Besides replacing the roof, the appellant testified that the doors were merely replacement ones for ones that had "blown off." In accordance with the Property Tax Code no additional square footage was added, all that was done was maintenance; the structure was not changed. On further questioning, Mr. Humphrey acknowledged that besides

[3] Observing the notation on Hearing Exhibit 1, if "Bldg #11 is [only one] used in the farming operation; . . . all other Bldg values should be reallocated to the residential portion of property assessment." The Board questions the validity of this assertion. The reallocation of farm buildings, which do not contribute to the farming operation on the subject property, to an improvement assessment subject to equalization, would seem to be improper. The character of the farm building has not changed, only its usefulness to the farming operation which may validate a *de minimus* farm building value.

[4] Inequity argument withdrawn at hearing by Mr. Humphrey as to this building (see *infra*).

the roof, the building was painted and the doors were replaced to ones that were "air-tight." Mr. Humphrey did not acknowledge whether those doors were now metal.

Item #10, a pole frame building, was not built in 2007 according to Mr. Humphrey, but was moved to this parcel by the appellant in 2007. He did this rather than tear it down and carry away the rubble. Item #10 was constructed in the 1940's yet the depreciation depicted is only 18%, resulting in a stated full value of $11,152 which the appellants contend is excessive. Humphrey further testified he stores lawn mowers, a rototiller and yard equipment in the building but it is not of any use or value contributing to the farm.

Item #11 is the "portable" building on the parcel present for the cattle; Mr. Humphrey stated he would "stipulate to that one." The ALJ confirmed in the hearing that the appellants no longer contest the assessment of Item #11.

In support of the inequity argument concerning farm outbuildings, the appellants rely on three comparables. Comparable #1 has a total farm outbuilding assessment of $8,154 which consists of eight structures with a full value total of $24,462 set forth on the Farm Building Listing for this parcel, Hearing Exhibit 2:

Net Condition %	*Description*	*Age*	*Size/Bushel*	*Full Value*
Fair	Unused grain bin	1951	14w x 10h	500
Average	Quonset B	1951	1,800	3,600
Fair	Pole building Dirt floor	1977	3,240	4,860
Good	Barns	1949	3,100	1,500
Good	Wood crib	1958	1,392	1,500
90% deprec	Grain bin	1980	12,575	2,349
90% deprec	Grain bin	1980	18,501	3,237
20.4% deprec	Pole frame bldg. Dirt floor	1980	3,000	6,916

Appellants' comparable #2, despite having farm buildings as asserted by the appellants, for tax year 2018 had no farm outbuilding assessment. (See Hearing Exhibit 3 – board of review acknowledged omitted property as of tax year 2019). The appellants argued, as depicted in Hearing Exhibit 3, the Farm Building Listing of appellants' comparable #2, was updated in June 2019 where six different farm-related structures were assessed with a notation on the document, "buildings previously omitted – added 2019."

Comparable #3 has a total outbuilding assessment of $370 according to the parties (Sec. VI grid analysis and BOR Exhibit F). For this parcel Hearing Exhibit 4, which was "updated 6/2/2020," sets forth two farm buildings:

Net Condition %	*Description*	*Age*	*Size/Bushel*	*Full Value*
Unsound	Misc shed Dirt floor	1936	252	300
Fair	Unused grain bin	1960	16w x 20 h	500

Mathematically, the reported full value of $800 for this parcel would reflect an assessment of $267, which is not reflective of the 2018 tax year assessment of these outbuildings of $370. Neither party addressed this inconsistency.

In closing, Mr. Humphrey questioned whether there comes a time when unrepaired farm buildings that are of no use or value to the farming operation get no value when they really should be torn down?

As to how the appellants concluded the assessment of the outbuildings should be reduced, Mr. Humphrey testified "most" of the farm buildings are in "disrepair" and were used for farming at one time but are no longer used for any farming activities. The appellants did not specify which structures, if any, were not properly assessable as part of the farming operation and/or were not being used in the farming operation, besides the one reference above to Item #4 which is used for storage. Nevertheless, the appellants contend the subject outbuildings should have a reduced total assessment of $3,500.

Board of Review's response to the appeal

The board of review submitted its "Board of Review – Notes on Appeal" disclosing the total assessment for the subject of $70,446. The assessment of the farmland is $234, the homesite has a $4,538 assessment, the residence is assessed at $58,344 or $17.53 per square foot of living area, and the farm outbuildings have a total assessment of $7,330. Supervisor of Assessments Jennifer Boyd noted that 2016 was the start of the general assessment cycle in South Dixon Township, and likely positive equalization factors would have been applied for tax years 2017 and 2018 to the residence and homesite assessments. (See 35 ILCS 200/10-135 – farmland is not subject to equalization).

In response to the appellants' criticism that the four board of review comparables are not all classified like the subject as "improved farmland" and instead reflect both "improved farmland" and "improved residential" properties, Boyd testified these properties are similar competing rural properties like the subject. Furthermore, the properties were utilized in response to the appeal, as the board of review did not understand the appellants to have specifically challenged the farm outbuilding assessment on equity grounds as well.

1. Dwelling

The subject dwelling was originally constructed in 1926 with 1,888 square feet of living area. In 1996, a two-story addition was built of 1,440 square feet along with an attached 672 square foot garage. After the addition, which included siding, roofing and replacement of "most" of the windows on the house, the dwelling has 3,328 square feet of living area. Boyd testified the subject's "excellent" overall condition rating is a judgment call based on the overall effective age when comparing the subject to other homes built in 1926. The subject has a weighted age of 1956 in light of the addition. The condition rating also reflects the new addition accounting for 43% of the entire dwelling as newer than the comparables presented.

In support of the subject's assessment, the board of review provided Exhibit E containing four suggested comparable properties, described as being in "competing neighborhoods." Each

comparable is improved with a two-story dwelling of frame or vinyl siding exterior construction, which have newer additions since original construction. The homes were built from 1901 to 1938, with reported effective ages ranging from 2001 to 2013, and comparable #3 having two effective ages of 2008 and 2013. Furthermore, the evidence indicates that these homes have weighted ages (including newer additions) ranging from 1945 to 1986. The dwellings range in size from 2,752 to 3,064 square feet of living area. Each dwelling has a basement and a garage ranging in size from 702 to 896 square feet of building area. Three dwellings each have central air conditioning. The comparables have improvement assessments ranging from $47,713 to $66,994 or from $16.64 to $21.86 per square foot of living area.

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

On cross-examination, Boyd was asked if she knew whether a building permit had been obtained for the remodeling/addition(s) to the dwelling in board of review comparable #4. The witness did not know if building permit(s) were obtained indicating the value of work to be performed. In the course of questioning, Mr. Humphrey noted that the renovation/addition to his home was performed some 17 years prior to the last renovation of this property.

As to board of review comparable #2, Boyd agreed that the weighted age of this dwelling of 1986 is approximately 30 years newer than the weighted age of 1956 assigned to the subject dwelling.

Boyd was asked about the accuracy of dates of construction of dwellings in the jurisdiction. Boyd testified that the assessment office began in 1961 and for properties for which building permits were obtained, the dates are "pretty dead on." As for older homes, Boyd was not sure how the dates of construction were determined.

2. Farm buildings

The ALJ asked Supervisor of Assessments, Jennifer Boyd, how farm outbuildings are assessed in the jurisdiction. She testified that farm buildings are assessed according to their use and their market value and then equitably assessed to other like-kind buildings. She further stated to ascertain value, the assessing officials utilize the Marshall & Swift cost manual and then adjust those figures for the market.

Addressing the appellants' farm building evidence as to comparable #1, Boyd testified that this property's farm structures differ from those of the appellants. The comparable has a higher overall farm outbuilding assessment and structures built from 1949 to 1980 as compared to several of the subject parcel's farm buildings which are newer from 2007 and 2012.

As to the appellants' comparable #2, Boyd acknowledged that for tax year 2018, this property had no outbuilding assessment as the farm structures were previously omitted. However, as depicted by Hearing Exhibit 3, the farm structures were added in tax year 2019, as follows:

Net Condition %	*Description*	*Age*	*Size/Bushel*	*Full Value*
Good	Pump houses	1921	112	500
0%	Barns	1926	0	1,500
0%	Misc shed Concrete floor	1931	0	1,000
Average	Wood crib	1921	1,568	1,000
0%	Misc shed Concrete floor	1936	0	600
0%	Misc shed Wood floor	1921	0	300

As of tax year 2019, appellants' comparable #2 outbuildings had a total full value of $4,200 for an assessment of $1,400. Boyd compared and contrasted the pump house in "good" condition with an age of 1921 and a full value of $500 to the subject's "unsound" pump houses from 1931 with a full value of $20. Boyd likewise compared and contrasted the misc sheds of comparable #2 as now assessed with a subject misc shed with a lower full value. This comparable has no other newer buildings like the subject's items #10 and #11 with construction dates of 2007 and 2008.

Appellants' comparable #3 was assessed in 2018 with two farm structures depicted on Hearing Exhibit 4. However, Boyd testified that the assessing officials have "since become aware" of an error as to the recorded "unsound misc shed" built in 1936. The county has learned this shed was replaced with a new building in approximately 2009, which assessment was picked up in 2022 with a full value of approximately $13,880. Nevertheless, despite the total assessment shown on Hearing Exhibit 4, both parties reported a 2018 farm outbuilding assessment for this property of $370 (see Appellants' Sec. VI grid and board of review Exhibit F).

The board of review submitted two comparables in support of the subject's farm outbuilding assessment on an equity basis. First, board of review comparable #2 based on Farm Building Listing, Hearing Exhibit 5, details the farm-related improvements:

Net Condition %	*Description*	*Age*	*Size/Bushel*	*Full Value*
0%	Cattle Shed	0	54w x 45 lgth.	2,500
60%	Grain bin	2006	10,010	11,746
10%	Grain bin	1973	1,665	799
0%	Wd frm M shed Concrete floor	1960	82w x 24 lgth.	60
44%	Pole frame Dirt floor	1990	7,500	31,185

Second, board of review comparable #4 based on Farm Building Listing, Hearing Exhibit 6, depicts a single farm-related building:

Net Condition %	*Description*	*Age*	*Size/Bushel*	*Full Value*
Excellent	Wood crib	1945	1,120	2,500

Based on the foregoing evidence and argument, the board of review contends that the appellants did not meet the necessary burden of proof on lack of assessment equity and the assessment of the subject farm buildings should be confirmed.

Appellants' Rebuttal

As to the board of review comparable evidence concerning the subject dwelling, Mr. Humphrey asserted that the assigned property classes of board of review comparables #1 and #3 are "improved residential." In contrast both the subject and the appellants' comparables are "improved farmland," making the board of review properties dissimilar to the subject. In addition, the board of review comparables are more distant from the subject; board of review comparable #1 is 8.5 miles from the subject. In summary, the appellants contend these properties submitted by the board of review should be given reduced weight as they are not the same type or quality of property. In addition, the appellants contend that the board of review comparable dwellings have all had substantial remodeling both interior and exterior.

Conclusion of Law

The taxpayers contend assessment inequity as the basis of the appeal as to both the residence and the farm outbuildings. 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).

1. Dwelling

The parties submitted a total of seven suggested equity comparables with varying degrees of similarity to the subject dwelling to support their respective positions before the Property Tax Appeal Board. Neither party presented comparables that are identical to the subject in actual age, weighted age, dwelling size and/or features. Nevertheless, the Board has given reduced weight to board of review comparables #1, #3 and #4, which vary in dwelling size from the subject home by approximately 14% to 17% in living area square footage as compared to other comparable dwellings contained in the record which are more similar to the subject in dwelling size.

Thus the Board finds the best evidence of assessment equity with regard to the subject dwelling in the record to be the appellants' comparables along with board of review comparable #2, which require adjustments to the comparables in age, dwelling size, basement size, air conditioning feature and/or garage size to make them more equivalent to the subject dwelling. The subject has a superior weighted age when compared to the weighted age of the appellants' comparables which lack more recent updates/renovations. In contrast, board of review comparable #2 has a 30 year newer weighted age than the subject due to updates/renovations that occurred in 2003. These comparables range in living area square footage from 2,952 to 3,628 square feet and therefore bracket the subject in dwelling size of 3,328 square feet. Each comparable has a basement which is a feature of the subject. Three of the four best comparables have a garage although adjustments are necessary for varying sizes. These four comparables have improvement assessments ranging

from $32,877 to $66,994 or from $10.00 to $21.86 per square foot of living area. The subject's improvement assessment of $58,344 or $17.53 per square foot of living area falls within the range established by the best comparables in this record both in terms of overall improvement assessment and on a per-square-foot of living area basis. Giving due consideration to the subject's 1996 renovations/updates in contrast with the comparables and their updates and/or lack of such updates, the appellants have not established lack of assessment equity as to the dwelling with clear and convincing evidence as required.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960). Although the comparables presented by the parties disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence.

In conclusion, the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's residential improvement was inequitably assessed and a reduction in the subject's improvement assessment is not justified.

2. Farm Buildings

In accordance with the Property Tax Code, in the definition of "farm," the statute provides, in pertinent part, "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**." (35 ILCS 200/1-60) [emphasis added].

Furthermore, Section 10-140 of the Property Tax Code states:

> Other improvements. Improvements other than the dwelling, appurtenant structures and site, including, but not limited to, roadside stands and buildings used for storing and protecting farm machinery and equipment, for housing livestock or poultry, or for storing feed, grain or any substance that contributes to or is a product of the farm, shall have an equalized assessed value of 33 1/3% of their value, based upon the current use of those buildings and their contribution to the productivity of the farm.

(35 ILCS 200/10-140). See also guidelines provided by the Illinois Department of Revenue, *Publication 122, Instructions for Farmland Assessments*, January 2018, at pages 36 and 37, addressing the assessment and valuation of farm buildings based upon their contribution to the productivity of the farm.

The appellants contend lack of assessment equity concerning farm outbuildings. The parties submitted a total of five equity comparables with farm building assessments. The Property Tax Appeal Board ordered the production of the applicable Farm Building Listing detailing the farm buildings on the respective parcels presented by the parties (Hearing Exhibits 1 through 6).

The Property Tax Appeal Board has thoroughly examined the record evidence and considered the testimony presented on this issue along with the testimony of how farm buildings are assessed within the jurisdiction. Given the statutory requirement that a farm building shall contribute to the operation of the farm based on their current use, as an initial issue, neither party presented substantive evidence related to how the subject structures are used in the farming operation and/or thus how the building(s) contributes to the farming operation. Mr. Humphrey made most conclusory assertions that the buildings are not used and only specifically described the current use of Item #4. Likewise, the board of review did not present evidence as to the assessment of these farm buildings, what data was gathered to determine their contribution to the farming operation and/or what the current use of these structures is in order to be assessed.

The Board finds one "common" type of structure that is assessed not only for the subject but also for several comparables. The "wood crib" is an example that assists in illustrating the difficulty in performing an equity analysis for farm buildings that contribute to the farming operation. Furthermore, although not specifically challenged by the appellants, an examination of the record as to the "wood crib" is useful. The subject and appellants' comparable #2 along with board of review comparable #4, each have one or more wood crib(s). The appellants' evidence depicts cribs built in 1921 and 1958 deemed to be in average and good condition, respectively, with full values of $1,000 and $1,500, respectively. Board of review comparable #4 has a 1945 crib described in excellent condition with a full value of $2,500. The subject property has a 1931 wood crib described as being unsound with a $300 full value.

As shown above in this single example, the Board finds based on an analysis of like-kind farm structure of a wood crib, the appellants failed to establish lack of assessment equity. The subject wood crib has the lowest assigned full value, has the poorest assigned condition, but is not the oldest wood crib in the record. However, recognizing how the assessing officials utilize a combination of the cost approach, applicable depreciation and condition to arrive at a full value for the various farm structures in the jurisdiction, the Board can utilize this information to make a further analysis of the entire record to consider the two specific farm buildings that the appellants addressed, namely, Items #4 and #10.

The subject's miscellaneous shed, Item #4 on Hearing Exhibit 1, has unrefuted testimony which contradicts the record of the assessing officials. Contrary to Hearing Exhibit 1, this structure was not "remodeled in 2012" but was actually built in 1941. Furthermore, to the extent that the appellants performed painting, replaced a roof and replaced doors with new air-tight doors, the work, as argued by the appellants, is found by the Board to be primarily maintenance. Unfortunately, neither party provided photographs of this structure in the "before" and "after" condition which would clearly help to establish the facts. Moreover, Mr. Humphrey was somewhat evasive in answering questions on cross examination about the 2012 work on Item #4 which detracts from the Board's willingness to thoroughly accept his mere maintenance argument.

In this regard, the appellants referenced Section 10-20 of the Property Tax Code in both rebuttal and at the hearing. The applicability of this statutory provision to the "maintenance" of a farm outbuilding is not specified. Section 10-20 states:

> 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*.

35 ILCS 200/10-20 [*emphasis added*]. As to Item #4, Mr. Humphrey never specifically addressed the material used for the original doors (wood versus metal) nor did he acknowledge whether the new doors were metal, as stated in the cross-examination question propounded by Ms. Boyd. While the Board finds Mr. Humphrey's apparent efforts to obfuscate the maintenance that was performed on Item #4, the Board can also not ignore the written record that the assessing officials for assessment purposes have treated this 1941 farm building containing 1,440 square feet of building area as having been "remodeled" in 2012 and deemed the same to be in "good" condition, resulting in a full value of $5,000 or $3.47 per square foot of building area.

Upon analysis of the Farm Building Listing records, the Board finds the best "misc shed" comparables are found in appellants' comparable #2 and #3, where a total of four "misc shed" structures are itemized. These structures were constructed from 1921 to 1936, such that the subject Item #4 is roughly five years newer than these "misc shed" equity comparables in the record. The comparable "misc shed" buildings appear to range in size from approximately 120 to 880 square feet of building area, although data is inconsistently provided in the documentation.[5] Nevertheless, these four "misc shed" structures set forth in the comparables have full values of either $300 or $600 or from approximately $0.68 to $2.50 per square foot of building area. On this limited record with the unrefuted evidence that Item #4 was not "remodeled" in 2012, the Board finds this structure has been inequitably assessed. The Board finds a reduction to a full value of $840 is warranted given the age of 1941, building size and questionable improved quality of (perhaps metal) doors installed in 2012.

The appellants also challenged the assessment of Item #10, the 1,088 square foot pole frame building. Like the previous analysis, the assessing officials have a recorded age of 2007 for Item #10. The Board finds the unrefuted testimony was that Item #10 was built in the 1940s and moved to this parcel from another parcel. Furthermore, as depicted on Hearing Exhibit 1, Item #10 has a reported unit cost of $12.50 per square foot for a replacement cost new of $13,600. The assessing officials then applied 16% depreciation resulting in a full value for this structure of $11,152 or $10.25 per square foot of building area.

[5] The Hearing Exhibits include columns for dimensions and also a column for square foot area. Item #4 has both dimensions and square foot area data. Hearing Exhibit 3 has only dimension data whereas Hearing Exhibit 4 has both dimension and square foot area data.

For purposes of the inequity argument raised by the appellant, the record contains appellants' comparables #1 and #3, Hearing Exhibits 2 and 4, respectively, depicting pole buildings built in 1977 and 1990 with building sizes of 3,240 and 7,500 square feet of building area, respectively. These comparables depict full values of $4,860 and $31,185 or $1.50 and $4.16 per square foot of building area, respectively. The subject Item #10 has a depreciated full value of $10.25 per square foot of building area which is greater than either of the comparables in this record despite that the subject is significantly older than either of these comparables. The Board finds based on the entirety of the record that Item #10 was overvalued in developing its assessment due to the age determination of 2007 which the appellant refuted in testimony and the board of review did not counter with any evidence to support the reported building age. The evidence in this record depicts two newer pole buildings than Item #10. With this limited record, the Board finds Item #10 has been inequitably assessed. The Board finds that Item #10 should have a full value of $1,000.

With the adjustments set forth to two of the farm structures on the subject parcel, the Board finds the new total full value of the farm buildings for the subject is $7,677, reduced from $21,989. Once the revised full value is converted to one-third, the Board finds that the subject outbuilding assessment reduction to $2,559 is warranted based on equity on this record.

APPELLANT:	**Gerald Kurtti**
DOCKET NUMBER:	**22-03020.001-F-1**
DATE DECIDED:	**January 2024**
COUNTY:	**Kendall**
RESULT:	**No Change**

The subject property is improved with a 1.5-story dwelling of frame exterior construction with 1,841 square feet of living area. The dwelling was constructed in 1860. Features of the property include a basement, a 2-car detached garage, a 2-story barn, a corn crib, a chicken coop, a milk house, and a grain silo. The property has a 3.4359 acre site, of which 0.0487 of an acre is cropland, 3.0975 acres is homesite, and 0.2897 of an acre is public road. The property is located in Oswego, Oswego Township, Kendall County.

The appellant contends a portion of the subject's homesite should be classified as farmland as the basis of the appeal.[1] In support of this argument, the appellant submitted a brief asserting 1.17 acres is used as a homesite and 2.27 acres is used for raising bees and harvesting fruit. The appellant asserted he entered into an agreement with a local beekeeper, Mike Prescott, on December 7, 2019 to establish two beehives in the southeast corner of the property in 2020. The appellant presented a copy of a Bee Hive Location – Land Lease Agreement dated December 7, 2019 between the appellant and Mike Prescott, which relates to the 2020 beekeeping season and pursuant to which Prescott will place three beehives at "560/606 Wolf Road" (which includes the subject property and another property that is not the subject of this appeal).[2]

The appellant further contended that apple trees are planted on the property. The appellant presented an aerial photograph depicting a row of apple trees, a photograph of an apple tree, and a photograph of a basket of apples. The appellant stated the trees were planted in 2002 and a basket of apples was harvested in 2022. The appellant argued an adjacent parcel owned by the appellant is improved with a pole building used to store beekeeping and fruit tree supplies and is classified as Farm Land with Buildings by the county, and another adjacent parcel owned by the appellant is improved with a residence and is classified as Residential by the county.

Based on this evidence, the appellant requested a farmland assessment for 2.27 acres of the subject parcel.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $91,034, which consists of $20 for farmland, $31,159 for homesite, and $59,856 for residence. In support of its contention of the correct assessment the board of review submitted an aerial photograph of the subject, indicating an area around the beehives and an area around the apple trees have each been designated as cropland. The board of review also presented notes from a board of review hearing, where the board of review concluded the areas

[1] The appellant did not contest the assessment of the subject's residence nor contend any of the improvements located on the subject property are farm buildings.

[2] The Board notes the appellant did not present any extension or renewal of this agreement for the 2021 or 2022 beekeeping seasons.

around the apple trees in front of the big barn and the area around the beehives would be classified as farmland with the remaining land to be classified as homesite. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellant's 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 appellant did not meet this burden of proof and a reduction in the subject's assessment is not 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 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 1-60 of the Property Tax Code (35 ILCS 200/1-60), as noted in Publication 122, excludes from the definition of a "farm" property that is primarily used for residential purposes even though farm products or animals are grown, fed, or bred on the property incidental to the residential use.

Based on this statutory definition of a farm and the guidance from Publication 122, the Board finds the appellant has not demonstrated the subject's land is incorrectly classified. The parties agree a portion of the subject's land is used for farming activity. However, the parties disagree as to the acreage that is used for this farming activity. The board of review classified the areas around the apple trees and around the beehives as cropland, totaling 0.0487 of an acre. The Board finds the appellant has not demonstrated how any additional portions of the subject's land are used for farming activities. Thus, based on this record, the Board finds no additional portion of the subject parcel is entitled to a preferential farmland assessment, and thus, no reduction in the subject's assessment is warranted.

APPELLANT:	**Steven & Mary Rochon**
DOCKET NUMBER:	**22-02511.001-F-1**
DATE DECIDED:	**January 2024**
COUNTY:	**Lake**
RESULT:	**No Change**

The subject property is improved with a 1-story dwelling of wood siding exterior construction with 2,529 square feet of living area. The dwelling was constructed in 1989. Features of the home include a basement with finished area, central air conditioning, a fireplace, and an 864 square foot garage. The parcel consists of a 121,117 square foot, or a 2.78 acre, site and is located in Antioch, Antioch Township, Lake County.

The appellants contend a portion of the subject parcel should be classified as farmland as the basis of the appeal. In support of this argument, the appellants submitted a brief asserting a portion of the subject property is used for agricultural purposes. The appellants contended they have raised bees on the subject property since the summer of 2020. The appellants submitted photographs of four beehives, aerial photographs of the subject property on which the appellants have marked the locations of the beehives, a soil survey map, a certificate of registration from the Illinois Department of Agriculture Apiary Inspection Section dated May 4, 2020, and applications regarding the same for four beehives. The appellants asserted the township assessor approved 1.3 acres, or 56,628 square feet, of the subject's land for a farmland assessment. Based on this evidence, the appellants requested a farmland classification for a portion of the subject parcel.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $132,243. The subject property has land assessment of $39,948 or $0.33 per square foot of land area, without any preferential farm assessment.

In support of its contention of the correct assessment the board of review submitted a brief contending that the subject property is zoned for residential use. The board of review submitted a zoning map depicting the subject is located in a residential zoning area with an agricultural zoning area adjacent to the subject across US Highway 45, which abuts the subject property. The board of review acknowledged the subject has four beehives. The board of review further argued a property that is primarily used for a residential purpose does not qualify for a farm assessment, even if farm products are grown or livestock raised on the property. The board of review presented an excerpt from the Illinois Department of Revenue's Publication 122 Instructions for Farmland Assessments. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellants asserted the subject property now has six beehives, but acknowledged the parcel is not zoned for agricultural use due to its size of less than 5 acres. The appellants argued the subject adjoins commercial properties and billboards and is adjacent to agriculturally zoned properties which are greater than 5 acres in land size. The appellants presented photographs of areas adjoining the subject. The appellants disagreed that only 1.3 acres of the subject are used for beekeeping and further argued the subject parcel's wooded areas provide food for bees. The appellants contended they sell honey from their beekeeping activities to friends,

neighbors, colleagues and others, and presented IRS Form Profit or Loss from Farming for tax year 2022 depicting farm expenses but no farm income.

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 did not meet this burden of proof and a reduction in the subject's assessment is not 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 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).

Based on this statutory definition of a farm, the Board finds the evidence clearly shows the subject property has not been used for an agricultural purpose for at least two years preceding the date of assessment. The parties agree that the appellants raise bees on the subject property and that at least four beehives are located on the property. Most importantly, the appellants presented evidence to demonstrate four beehives have been at the property since May 2020, which is less than two years from the January 1, 2022 assessment date and does not meet the preceding two year statutory requirement of Section 10-110. Thus, based on this evidence, the Board finds the subject property is not entitled to a farmland classification and no reduction in the subject's assessment is warranted.

2024 FARM CHAPTER
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[Items Contained in Italics Indicate Arguments or Evidence in Opposition to the Appellant's claim]

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2024 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

2024 COMMERCIAL CHAPTER

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APPELLANT:	**Brad Barkau**
DOCKET NUMBER:	**22-03256.001-C-2**
DATE DECIDED:	**May 2024**
COUNTY:	**St. Clair**
RESULT:	**Reduction**

The subject property consists of a 1-story commercial building with 8,800 square feet of gross building area. The building was constructed in 2000 and has central air conditioning. The property is located in New Baden, Mascoutah Township, St. Clair 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 in Belleville, Carlyle, Glen Carbon, and New Athens. The parcels range in size from 22,651 to 56,628 square feet of land area and are improved with commercial buildings ranging in size from 4,192 to 8,744 square feet of gross building area.[1] The buildings were constructed from 1956 to 2007. Four comparables are single-tenant buildings, two of which sold subject to Dollar General leases and two of which sold subject to other tenant leases. One comparable is a 2-tenant building that sold subject to two leases. The comparables sold from January 2019 to September 2020 for prices ranging from $100,000 to $557,000 or from $20.00 to $63.70 per square foot of gross building area, including land. Based on this evidence, the appellant requested a reduction in the subject's assessment to $144,060 which would reflect a market value of $432,223 or $49.12 per square foot of gross building area, 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 equalized assessment for the subject of $223,927. The subject's assessment reflects a market value of $671,244 or $76.28 per square foot of gross building area, land included, when using the 2022 three year average median level of assessment for St. Clair County of 33.36% as determined by the Illinois Department of Revenue.

The board of review contended two of the appellant's comparables are located in different counties and one comparable is located in a different township than the subject. The board of review also argued the appellant's comparable #4 is vacant land and presented a property record card for this property, which describes unimproved land but contains photographs of a building. This property record card indicates a land value only for 2022 of $17,210, a value for 2021 of $15,909 and a value for 2020 of $15,237.

In support of its contention of the correct assessment the board of review submitted property record cards with information on three comparables located in St. Clair County, one of which sold in May 2013 and one of which sold in January 2017. Based on this evidence, the board of review requested confirmation of the subject's assessment.

[1] The parties differ regarding the building size of comparable #1. The Board finds the best evidence of its building size is found in its property record card presented by the board of review, which discloses a 4,192 square foot building and was not refuted by the appellant.

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 board of review's comparables were not presented on the Property Tax Appeal Board's prescribed forms as required by Section 1910.80 of the rules of the Board. The Board issued Standing Order No. 2 that applies to all matters filed after February 28, 2023, whereas all parties, including appellants, intervenors, and boards of review are ordered to use the Board's prescribed forms in accordance with Section 1910.80 of the rules of the Board whether a party is filing by paper or through the e-filing portal. Any party not complying with Board's rules will be subject to sanctions. The sanction is to give any evidence not submitted on the proper form zero weight. Therefore, pursuant to the Board's strict application of section 1910.80, as articulated in Standing Order No. 2, the property record cards containing information on three comparable properties submitted by the board of review is given no weight.

The Board finds the only evidence of market value to be appellant's comparables. The Board gives less weight to the appellant's comparable #4, which appears to have been demolished after its 2020 sale, and to the appellant's comparable #1, which is a substantially smaller building than the subject. The Board finds the appellant's comparables #2, #3 and #5 are more similar to the subject in building size and sold for prices ranging from $165,000 to $557,000 or from $20.77 to $63.70 per square foot of gross building area, including land. The subject's assessment reflects a market value of $671,244 or $76.28 per square foot of gross building area, including land, which is above the range established by the best comparable sales 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 justified.

APPELLANT:	**Cambridge House of Swansea**
DOCKET NUMBER:	**22-03078.001-C-2**
DATE DECIDED:	**October 2024**
COUNTY:	**St. Clair**
RESULT:	**Reduction**

Applicable Statutory Provision & Regulation

The board of review did not challenge the appellant's contention that the subject property is to be assessed in accordance with Section 10-390 of the Property Tax Code (hereinafter "Code") concerning "Valuation of Supportive Living Facilities." (35 ILCS 200/10-390). This provision states:

> (a) Notwithstanding Section 1-55, to determine the fair cash value of any supportive living facility established under Section 5-5.01a of the Illinois Public Aid Code, in assessing the facility, a local assessment officer must use the income capitalization approach. *For the purposes of this Section, gross potential income must not exceed the maximum individual Supplemental Security Income (SSI) amount, minus a resident's personal allowance as defined at 89 Ill.Admin.Code 146.205, multiplied by the number of apartments authorized by the supportive living facility certification*.
> (b) When assessing supportive living facilities, the local assessment officer may not consider:
>
> (1) payments from Medicaid for services provided to residents of supportive living facilities when such payments constitute income that is attributable to services and not attributable to the real estate; or
>
> (2) payments by a resident of a supportive living facility for services that would be paid by Medicaid if the resident were Medicaid-eligible, when such payments constitute income that is attributable to services and not attributable to real estate.
>
> (Source: P.A. 102-16, eff. 6-17-21 latest revision in italics after *Manteno C.U.S.D. No. 5 v. Property Tax Appeal Board*, 2020 IL App (3d) 180384.)

Findings of Fact

The subject property is improved with a three-story brick building with a concrete slab foundation which contains 87,461 square feet of gross building area and operates as a State of Illinois approved 103 rental unit low-income supportive living facility that opened in 2009. There are 96 one-bedroom single occupancy units, 3 two-bedroom double occupancy units, and 4 one-bedroom

double occupancy units. The facility has multiple offices for facility personnel, some of which are located on each respective floor of the building. Common areas in the building include a living room, dining room, private dining room, commercial kitchen, employee lounge, activity room, TV lounge, beauty salon, exercise room, assisted bathing room, two common restrooms, a residential laundry on each floor, and a staff laundry room. The subject property has a 5.93-acre site, with approximately 116 asphalt parking spaces, 5 of which are marked for handicap use, and is located in Swansea, St. Clair Township, St. Clair County. (Appraisal, p. 10)

The appellant contends overvaluation as the basis of the appeal and, in a 15-page brief with supporting documentation, the appellant argued that "the assessed value as determined by the local assessing officials was based on some approach other than the income approach properly applied pursuant to 35 ILCS 200/10-390" of the Property Tax Code. (Brief, p. 5)

In support of the overvaluation argument, the appellant submitted an appraisal prepared by Keith Honegger, a Certified General Real Estate Appraiser, estimating the *ad valorem* market value of the subject property of $3,058,000 as of January 1, 2022, in what the appraiser contends is compliance with the Property Tax Code for valuation of low-income Supportive Living Facilities. (Citing to 35 ILCS 200/10-390). In light of the statutory provision, Honegger prepared the income approach in the appraisal as shown on page 13 of the appraisal and briefly outlined herein.

Honegger began with the reported minimum SSI payment in 2022 of $841 less $90 for the recipient's personal use based on 103 units and 12 months accounting for potential gross rent (including food) of $928,236 (841 – 90 = 751 x 103 x 12 = 928,236). He asserted that $751 was the room and board rent regardless of the room type (Efficiency, 1-bedroom or 2-bedroom) and apart from the service needs of the tenant. The appraiser deducted 5% or $46,412 for "vacancy and concessions" resulting in an effective gross rent including food of $881,824.

As this figure is the starting point for room and board (food), Honegger opined that the raw food expense of $191,045 must be deducted, which results in the potential effective gross rent excluding food of $690,779. Next Honegger determined that Food Stamp Reimbursement or SNAP for low-income tenants along with private meal reimbursement of $170,051 should be added, resulting in "effective gross revenue (apartment only with food not included)" of $860,830.

As Honegger contends that 26% of supportive living facilities in Illinois operate the living portion of the supportive living facility as a Section 42 low-income property which results in two existing tax laws (Section 42 and 10-390) regulating the mandated income approach to value for *ad valorem* valuation. Thus, Honegger used Section 42 operational expense data along with supportive living facility expense operational data to determine the appropriate expense ratio to apply to the effective gross income of the subject property. (Appraisal, p. 12)

For operating expenses, Honegger depicts the 2019, 2020 and 2021 actual expense ratios of 63.7%, 65.1% and 59.3%, respectively, to arrive at an average historical expense ratio of 62.7% or $539,740 which is deducted from the effective gross income resulting in a net income for the subject of $321,090.

Next, in order to capitalize the net income of $321,090 the appraiser applied an overall capitalization rate of 10.5% (see Appraisal, p. 23 citing Appendix C, page 41), resulting in a market

value for the subject under this income approach of $3,058,000 or $29,689 per unit, including land. (Appraisal, p. 13)

To further support the income approach figures, Honegger detailed from page 14 to 22 of the appraisal analyses of not only supportive living facility data but also Section 42 housing comparable expense data to support the appraiser's conclusions as to the subject.

Based on the foregoing evidence and argument, the appellant requested an assessment reflective of the appraised value conclusion.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of $1,195,104. The subject's assessment reflects a market value of $3,582,446 or $34,781 per unit, land included, when using the 2022 three-year average median level of assessment for St. Clair County of 33.36% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review asserted that it was in agreement with the assessor's value by income, citing a spreadsheet submitted in evidence and the 2021 cost report for supportive living facilities filed with the Illinois Department of Healthcare & Family Services.

In support of its contention of the correct assessment, the board of review submitted a one-page "income analysis" document as to the subject. The document appears to depict two income approach calculations, each consuming approximately ½ page. Each approach commences with 103 units at a monthly rent of $751 or an annual income of $928,236; to each analysis, a 5% vacancy deduction or $46,411.80 is shown; then, two differing expense calculations are depicted: one at 63% of income or $552,903.77 and the other at $5,200 per month per unit for an annual expense of $535,600. The first set of data results in a net operating income (NOI) of $328,920.43. The second set of data results in a NOI of $346,224.20.

Next for each analysis, a 10% capitalization rate was applied. Thus, the first analysis depicts an estimated value of $3,289,204.27 for an assessment of $1,096,401.42. The second analysis depicts an estimated value of $3,462,242.00 for an assessment of $1,154,080.67. Each of these analyses depict an estimated market value that is below the subject's estimated market value based upon its assessment of $3,582,446.

Also submitted by the board of review is a June 15, 2022 document entitled *Cap Rates in St. Louis, Missouri*[1]; eight pages of 2021 Supportive Living Facility HFS Cost Report FY 2021 for the subject with three attachments; a second copy of the June 15, 2022 document entitled *Cap Rates in St. Louis, Missouri*; and, lastly, a multi-page property record card for the subject.

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

In rebuttal, the appellant asserts the assessor's second income calculation failed to adjust the monthly "room and board" rent of $751 downward to account for the food cost in order to arrive

[1] None of the property types depicted on this document refer to a supportive living facility and/or a nursing home.

at a monthly room only rent, excluding food. Furthermore, once the food cost has been deducted, the appellant contends that the next step is to add back any SNAP food reimbursements the facility receives from the government, since not all facilities receive SNAP reimbursement. Using this methodology, the appellant contends is an equitable adjustment for the calculation of *ad valorem* value, since other facilities would be treated unfairly "because they could not subtract their food cost from the room and board rent" when they are not reimbursed by SNAP. (Rebuttal, p. 2)

Additionally, the appellant criticizes the assessing officials' use of data from the Illinois Housing Development Authority (IDHA) for purposes of calculating operating expenses as part of the income approach. In contrast, the appellant's appraiser used historical expense data for the subject whereas the information the assessor used presents a range of figures for "low-income properties."

Based on this evidence and argument, the appellant requests a reduction in the assessment.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation in accordance with Section 10-390 of the Property Tax Code (35 ILCS 200/10-390) which specifies the use of the income approach to value in assessing supportive living facilities. 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 an appraisal of the subject property which relied upon Section 10-390 of the Property Tax Code as to the assessment of supportive living facilities supporting an assessment reduction and the board of review submitted a purported one-page income analysis with two different calculations for consideration by the Property Tax Appeal Board, both of which reflect an opinion of value that is below the subject's current estimated market value based upon its assessment, which also support an assessment reduction. However, due to the lack of detail and/or supporting documentation, the Board gives no weight to the board of review submission of these two single page income analyses. The Board finds that there is no narrative to explain the bases for the respective income analyses prepared by an unknown individual on behalf of the board of review and/or their credentials for preparation of the analyses. Additionally, the Board finds there is insufficient information to provide support for the chosen expense calculation and/or the chosen capitalization rate, despite that there is not very much difference in the figures between the board of review analyses and that of Honegger on behalf of the appellant. In summary, the Board finds the board of review submission lacks necessary detail and/or support thus detracting from its credibility and reliability on this record.

The Board finds, given the limited record, the best, most credible and somewhat supported and somewhat explained evidence of market value to be the appraisal submitted by the appellant. Within the supporting documentation filed with the appraisal are provisions of the Illinois Administrative Code related to the Illinois Department of Healthcare and Family Services as to Medicaid which indicate that "meals" are included in the room and board amount paid by the resident to the supportive living facility. Thus, the determination by Honegger to remove the raw food costs from the gross income appears to be logical to arrive at an income figure related purely to rental payments related to the room. However, the appraiser's next determination to add in

SNAP reimbursements made to the facility for food of eligible resident(s) is a somewhat confusing and simply unclear analysis which was not well explained or articulated on this record other than asserting this addition would be "equitable" for facilities that do not receive SNAP reimbursements.

The appraisal set forth an opinion of market value of $3,058,000. The subject's assessment reflects a market value of $3,582,446, including land, which is above the appraised value conclusion. The Board finds on this documentary record that the subject property had a market value of $3,058,000 as of the assessment date at issue. Since market value has been established the 2022 three-year average median level of assessment for St. Clair County of 33.36% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

APPELLANT:	**Jodi Peoria MF, LLC**
DOCKET NUMBER:	**21-06335.001-C-1**
DATE DECIDED:	**August 2024**
COUNTY:	**Peoria**
RESULT:	**No Change**

The parties appeared before the Property Tax Appeal Board on June 13, 2024 for a hearing at the Property Tax Appeal Board's office in Springfield pursuant to prior written notice dated March 15, 2024. Appearing at the hearing on behalf of the appellant was attorney, Elizabeth Megli, of Livingston, Barger, Brandt & Schroeder LLP; and appearing on behalf of the Peoria County Board of Review was Greg Fletcher, chairman of the board of review. This appeal was consolidated with Docket Numbers 21-06336.001-C-1, 21-06337.001-C-1, 21-06340.001-C-1, 21-06341.001-C-1, 21-06342.001-C-1, 21-06344.001-C-1, and 21-06351.001-C-1 for hearing purposes by agreement of the parties.

The subject property consists of a vacant residential lot containing approximately 0.25 of an acre, or 10,890 square feet, of land area and is located in Dunlap, Radnor Township, Peoria County.

The appellant indicated both a contention of law and assessment inequity as the bases of the appeal. In support of the contention of law argument, the appellant submitted a brief asserting the subject parcel is vacant residential land within the Summer Ridge Subdivision that was platted and developed by Summer Ridge, LLC, but on which no residence has yet been built. The appellant contended Summer Ridge, LLC originally had five members, including R. Michael Hundman, who was a member of Summer Ridge, LLC when the subject property was transferred to the appellant in December 2020. The appellant asserted Hundman and his spouse are the sole members of the appellant. Based on these facts, the appellant argued a developer's preferential assessment under Section 10-31 of the Property Tax Code (35 ILCS 200/10-31) should apply to the subject parcel as it was not sold to an unrelated purchaser given Hundman's ownership in both Summer Ridge, LLC and the appellant.

The appellant submitted a copy of its complaint and evidence submitted to the board of review, and presented a copy of a notice of property tax assessment for the 2021 tax year which depicts a prior tax year assessment of $240 for the 2020 tax year.

At hearing, the appellant called R. Michael Hundman as a witness. Hundman testified he, Bill Johnston, Tom Oaks, John Hoffman, and BJ Armstrong, were the original members of Summer Ridge, LLC. Hundman could not recall whether Johnston's son or daughter was also member and whether these persons owned their interests individually or through business entities. Hundman testified Summer Ridge, LLC had a loan with Heartland Bank that was secured by a mortgage on the subject property and by guaranties of the members. Hundman asserted Heartland Bank deemed itself insecure under the loan when member, Johnston, had financial issues. Hundman testified the members each worked out their own agreements with Heartland Bank with respect to their individual guaranties of the Summer Ridge, LLC loan. With respect to his personal liability, Hundman stated he proposed to Heartland Bank a transfer of the real estate owned by Summer Ridge, LLC (including the subject parcel) to the appellant for a payment of $250,000 and Heartland

Bank agreed to release its mortgage on the property for this sum. Hundman testified that he was a member of Summer Ridge, LLC at the time of this transaction.

Hundman identified the Real Estate Transfer Declaration included with the board of review's evidence as relating to this December 2020 transaction. Hundman testified all of the real estate owned by Summer Ridge, LLC at that time was transferred to the appellant in this transaction. Hundman explained the appellant was an existing limited liability company owned by Hundman and his spouse, which owned other property in Peoria prior to the December 2020 transaction. Hundman stated he was unsure of the amounts paid by others on the Summer Ridge, LLC loan and did not know the loan balance at time of the December 2020 transaction.

On cross-examination, Hundman testified Summer Ridge, LLC is correctly identified as the seller on the Real Estate Transfer Declaration, the appellant is correctly identified as the buyer on the Real Estate Transfer Declaration, and that the appellant paid money for the real estate described in the Real Estate Transfer Declaration. Hundman clarified a balance was still owed under Heartland Bank's loan to Summer Ridge, LLC at the time of the December 2020 transaction. Hundman testified he received K1 statements relating to his interest in Summer Ridge, LLC.

Hundman further testified the appellant is registered to do business in Illinois and that he and his spouse, Lesa Hundman, receive K1 statements relating to their interests in the appellant. Hundman testified that Summer Ridge, LLC paid the real estate taxes and insurance on the subject prior to its transfer to the appellant and now these items are paid by Hundman and his spouse or their business entities. Hundman clarified he and Armstrong were members of Summer Ridge, LLC in December 2020, but was unsure whether Johnston was also still a member at that time.

Upon questioning by the Administrative Law Judge ("ALJ"), Hundman testified Summer Ridge, LLC was formed in 2006 as a manager-managed limited liability company, with Johnston acting as the initial manager and Armstrong and Hundman acting as managers at the time of the December 2020 transaction. Hundman recalled Johnston owned a 40% to 50% interest in Summer Ridge, LLC with the remaining members each owning interests from 10% to 15%. Hundman could not recall whether Heartland Bank declared a default under the loan or accelerated the loan, but confirmed that there was no foreclosure action. Hundman testified the money paid by the appellant in December 2020 went to Heartland Bank and he understood this sum did not pay the loan balance in full, with some of the debt likely written off. Hundman stated the $250,000 sum was based on his estimate of the market value of the property. Hundman clarified both he and his spouse signed guaranties to secure the Summer Ridge, LLC loan from Heartland Bank.

On re-direct examination by Megli, Hundman explained Summer Ridge, LLC's expenses were typically paid with cash contributions from the members, which he stated is a common practice for developer entities with non-income producing assets. On re-cross examination, Hundman acknowledged the loan documents had not been submitted as evidence in this appeal.

In support of the assessment inequity argument, the appellant submitted information on three equity comparables located within the same subdivision as the subject and containing from 0.22 to 0.26 of an acre, or from 9,583 to 11,326 square feet, of land area. The comparables each have a land assessment of $110.

At hearing, Hundman testified he is familiar with the comparables, but did not recall having assisted in their selection as comparables. Hundman described the comparables as lots in the Summer Ridge Subdivision that had once been owned by Summer Ridge, LLC, but had each been subsequently transferred to a member of Summer Ridge, LLC. Hundman testified it is common for a developer entity to transfer developed lots to its members. Hundman recalled these comparables were transferred in 2015, but he was not certain which member received these lots, including whether he was the member who received them.

On cross examination, Hundman stated he was uncertain of the tax year for which the land assessments depicted in the spreadsheet are presented, but agreed no sale prices are depicted on the appellant's spreadsheet. On re-direct examination, Hundman testified the comparables retained their developer's preferential assessments after the 2015 transfers from Summer Ridge, LLC to its members.

In closing argument, the appellant contended the evidence demonstrates that both Hundman and his spouse were liable for the subject property before and after the December 2020 transaction, either through member contributions or personal guaranties. The appellant argued the evidence shows the December 2020 transaction was not an arm's length sale. Based on this evidence, the appellant requested a reduction in the subject's assessment to $110.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $18,700 or $1.72 per square foot of land area. In support of its contention of the correct assessment the board of review submitted information on three equity comparables located in Dunlap, Edwards, and Peoria, none of which are located within the same neighborhood as the subject. The parcels range in size from 0.28 to 0.88 of an acre, or from approximately 12,197 to 38,333 square feet, of land area and have land assessments ranging from $15,420 to $23,540 or from $0.40 to $1.93 per square foot of land area.[1]

The board of review submitted a brief contending that the subject was purchased by the appellant on December 30, 2020, together with a copy of the Real Estate Transfer Declaration for this transaction, which indicates it was a short sale and the aggregate purchase price was $250,000. It was not indicated that the property was advertised for sale and it was not indicated that it was a sale between related individuals or corporate affiliates. The board of review argued in its brief that this sale occurred between two separate entities. Due to this sale, the board of review concluded that the subject property does not qualify for a developer's preferential assessment under Section 10-30 of the Property Tax Code (35 ILCS 200/10-30).

The board of review submitted a copy of the Illinois Department of Revenue Publication 134 Developer's Preferential Assessment for Subdivisions Property Tax Code, Section 10-30. The board of review also submitted a copy of the Board's final administrative decision in Docket Number 09-01750.001-C-1, which the board of review argued in the brief supports its contention that a developer's preferential assessment terminates after a sale. In that appeal, the Board sustained the removal of the developer's preferential assessment after an initial sale of the property

[1] The Board notes the board of review also submitted information on comparable sales, which the Board finds are not responsive to either of the appellant's bases for this appeal and shall not be further considered herein.

from the original developer to another entity, despite the appellant's contention that the entities were related through common ownership.

At hearing, the board of review called Dave Ryan, Supervisor of Assessments, as its witness. Ryan testified that in developing the subject's 2021 tax year assessment he consulted the Illinois Department of Revenue Publication 134 Developer's Preferential Assessment for Subdivisions and Property Tax Code, Section 10-30, to which he was referred by the Illinois Department of Revenue,[2] and looked at final administrative decisions of the Board for other properties, including the decision that was submitted by the board of review with its evidence. Based on his review of the foregoing, Ryan stated he determined the developer's preferential assessment for the subject should be removed. Ryan asserted Section 10-30, not Section 10-31, of the Property Tax Code is the relevant provision for the developer's preferential assessment.

On cross examination, Ryan explained he determines whether a sale has occurred by investigating transfers of real estate, typically by reviewing the Real Estate Transfer Declaration for the transaction. Ryan testified he does not typically investigate the ownership of business entities to a transaction unless the circumstances warrant it.

Upon questioning by the ALJ, Ryan testified the subject had a developer's preferential assessment prior to the December 2020 transaction, which was based on its assessment as farmland. Ryan acknowledged that some properties may erroneously continue to have a developer's preferential assessment after a sale, but was uncertain whether the appellant's comparables incorrectly have a developer's preferential assessment. Ryan stated he has followed the Illinois Department of Revenue's guidance.[3] On re-direct examination, Ryan testified he has been in the Supervisor of Assessments position since 2003.

In closing argument, the board of review contended Summer Ridge, LLC and the appellant are separate entities with different ownership. The board of review argued the subject was purchased by the appellant for a negotiated purchase price based on its market value. Based on this evidence, the board of review requested the subject's assessment be sustained.

In written rebuttal, the appellant submitted a brief contending the December 2020 transfer caused no change in the underlying ownership of the subject as Hundman was an owner of both Summer Ridge, LLC and the appellant and suggesting these two entities are alter egos. The appellant distinguished the Board's final administrative decision in Docket Number 09-01750.001-C-1, arguing the December 2020 transaction did not occur for the purpose of bringing in additional investors for further development like the transaction in that appeal.

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[2] Ryan's testimony regarding conversations with the Illinois Department of Revenue drew an objection from the appellant as hearsay, which the ALJ sustained. Ryan's testimony regarding his conclusion regarding liability for the subject property drew an objection from the appellant as a legal conclusion, which the ALJ sustained. Ryan's testimony regarding his conclusions of ownership for homeowner exemptions based on addresses drew an objection from the appellant for relevance, which the ALJ sustained after the board of review made no counterargument to this objection.

[3] Ryan's testimony regarding his reliance on the Illinois Department of Revenue guidance to assess property drew an objection from the appellant as hearsay, which was overruled by the ALJ as relating to his prior testimony.

The board of review filed written rebuttal on August 29, 2022, which the Board finds was not timely filed within 30 days of the Board's letter dated June 30, 2022 notifying the parties of their 30-day rebuttal period. Thus, the Board shall not further consider the board of review's rebuttal evidence filed herein. (See 86 Ill. Admin. Code § 1910.66).

Conclusion of Law

The appellant's argument is based in part on a contention of law regarding the interpretation and application of section 10-31 of the Property Tax Code (35 ILCS 200/10-31). 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 appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant seeks a reduction in the subject's assessment pursuant to Section 10-31 of the Property Tax Code. Pursuant to Section 10-31(d), this Section was effective from August 14, 2009 through December 31, 2011. 35 ILCS 200/10-31(d). The Board finds Section 10-31 was not effective as of the January 1, 2021 assessment date at issue in this appeal and no reduction in the subject's assessment is warranted pursuant to Section 10-31.

The Board finds Section 10-30 of the Property Tax Code (35 ILCS 200/10-30), which was identified by the board of review, is the applicable provision for a developer's preferential assessment that was effective as of the January 1, 2021 assessment date. Pursuant to Section 10-30(d), this Section was effective before August 14, 2009 and was effective again beginning January 1, 2012. 35 ILCS 200/10-30(d).

Paragraphs (a) and (b) of Section 10-30 prescribe a developer's preferential assessment as follows:

> (a) In counties with less than 3,000,000 inhabitants, the platting and subdivision of property into separate lots and the development of the subdivided property with streets, sidewalks, curbs, gutters, sewer, water and utility lines shall not increase the assessed valuation of all or any part of the property, if:
>
> (1) The property is platted and subdivided in accordance with the Plat Act;
>
> (2) The platting occurs after January 1, 1978;
>
> (3) At the time of platting the property is in excess of 5 acres; and
>
> (4) At the time of platting the property is vacant or used as a farm as defined in Section 1-60.
>
> (b) Except as provided in subsection (c) of this Section, the assessed valuation of property so platted and subdivided shall be determined each year based on the estimated price the property would bring at a fair voluntary sale for use by the buyer for the same purposes for which the property was used when last assessed prior to its platting.

It is undisputed that the subject met the requirements of Section 10-30(a) and had a developer's preferential assessment under Section 10-30(b) prior to its transfer in December 2020. The appellant presented a notice of property tax assessment for the 2021 tax year which depicts the subject's assessment of $240 for the 2020 tax year, which Ryan testified reflected its assessment as farmland.

Section 10-30(c) provides for termination of the developer's preferential assessment as follows:

> (c) Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose, **or upon the initial sale of any platted lot, including a platted lot which is vacant**: (i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section. Holding or offering a platted lot for initial sale shall not constitute a use of the lot for business, commercial or residential purposes unless a habitable structure is situated on the lot or unless the lot is otherwise used for a business, commercial or residential purpose. (emphasis added).

The parties dispute whether the December 2020 transaction constituted an initial sale that terminates the developer's preferential assessment. The appellant argued the December 2020 transaction was not a sale due to common ownership of Hundman in both Summer Ridge, LLC and the appellant and due to common liability of Hundman and his spouse for the property before and after the December 2020 transfer. The board of review argued the December 2020 transaction was a sale as the two entities are separate and distinct business entities with different ownership, consideration was paid for the property, transfer taxes were reported due on the Real Estate Transfer Declaration, and the property was transferred from Summer Ridge, LLC to the appellant.

The Board finds an initial sale of the subject property occurred in December 2020. The Board finds the evidence shows Summer Ridge, LLC and the appellant are separate and distinct business entities. Hundman testified these two entities were formed at different times and each has different ownership and management. Moreover, the Board finds the appellant's common liability argument to be unpersuasive. Hundman testified that the members and/or guarantors of Summer Ridge, LLC each reached their own agreements with respect to the Heartland Bank loan, indicating Hundman and his spouse were never solely liable for the property before the property was transferred to the appellant. Contrary to the appellant's suggestion that these two entities are alter egos, Hundman testified the property was transferred to the appellant to protect and preserve it from a mortgage foreclosure action by Heartland Bank, which presumes the appellant is a separate business entity that is not liable for Summer Ridge, LLC's debts. The Board finds the evidence further shows the subject property was transferred and consideration of $250,000 was paid, which Hundman testified reflected his estimation of its market value.

Based on this record, the Board finds the subject property was not entitled to a developer's preferential assessment under Section 10-30 of the Property Tax Code for the 2021 tax year.

The appellant 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 appellant did not meet this burden of proof and a reduction in the subject's assessment is not justified.

The record contains six equity comparables for the Board's consideration. Hundman testified these comparables retained a developer's preferential assessment following their 2015 transfers from Summer Ridge, LLC to its members. Ryan testified that some properties may incorrectly continue to have a developer's preferential assessment after a sale, but he was uncertain whether the developer's preferential assessment for these properties should have been removed. Notwithstanding Ryan's admission that some properties may be incorrectly assessed with a developer's preferential assessment, the Board finds only the assessment of the subject property is before it in this appeal and that it would not be proper to extend a developer's preferential assessment to the subject after it has terminated pursuant to Section 10-30, only because other properties may incorrectly continue to receive this preferential assessment.

The Board finds the best evidence of assessment equity to be the board of review's comparables, which have varying degrees of similarity to the subject in site size and location, suggesting adjustments to these comparables would be needed to make them more equivalent to the subject. There is no evidence in the record to suggest that any of these comparables has a developer's preferential assessment. These comparables have land assessments ranging from $15,420 to $23,540 or from $0.61 to $1.93 per square foot of land area. The subject's land assessment of $18,700 or $1.72 per square foot of land area falls within the range established by the best comparables, and appears to be well supported based on the board of review's comparable #3, which is the most similar to the subject in site size and location, and has a land assessment of $23,540 or $1.93 per square foot of land area. Based on this evidence, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land was inequitably assessed and no reduction in the subject's land assessment is warranted.

APPELLANT:	**Patsy Stanfield**
DOCKET NUMBER:	**22-03706.001-C-3**
DATE DECIDED:	**December 2024**
COUNTY:	**Coles**
RESULT:	**Reduction**

The subject property consists of an approximately 88.35-acre mobile home park that is improved with a 768 square foot storage building and a 280 square foot "bath house." Other structures on the subject lot consist of mobile homes and other buildings such as garages and/or sheds owned by individual homeowners that rent lots from the appellant who is the owner of the mobile home park. Both buildings owned by the appellant are approximately 70 years old. The property is located in Neoga, Paradise Township, Coles County.

The appellant argues contention of law as the basis of the appeal. In support of this argument, the appellant submitted property record cards for subject property and all assessed structures on the subject site consisting of garages, sheds and one enclosed porch.[1] The property record card for the subject disclosed that the subject's improvement assessment includes the entire mobile home park with improvements and structures owned by both the appellant and the tenants for "prior year equalized" (or tax year 2021) was $106,600. However, for the subsequent 2022 tax year at issue, the subject's improvement assessment increased to $295,321 suggesting that prior to 2022 re-evaluation, the garages/sheds and/or other structures attached to the mobile homes were not assessed as real property. The appellant also submitted a copy of the Notice of Final Decision by the Coles County Board of Review disclosing that for the 2022 tax year at issue, the subject has an improvement assessment of $295,321. In addition, the appellant submitted photographs of the buildings in question depicting what appear to be garages and/or storage sheds of varying sizes.[2]

Appellant's counsel also submitted a legal brief contending that in determining the assessed value of the buildings and other improvements on the subject parcel, the board of review wrongly included fifteen "buildings" that are not owned by the appellant. The appellant contends that the mobile homes on the appellant-owned site, along with all structures such as garages, and sheds that are owned by the tenants should not be assessed as real property. The appellant argues that the buildings at issue "… are owned by the individual mobile homeowners that rent lots from the Appellant in the mobile home park owned by her." The appellant's counsel cited *Boone County Board. of Review v. Property Tax Appeal Board*, 276 Ill. App. 3d 989, 659 N.E.2d 72 (2d Dist. 1995) where the Illinois Appellate Court considered a similar issue regarding the classification of mobile homes along with other structures such as garages attached or detached from the mobile home itself that are located on the rented lots in a mobile home park. Appellant's counsel noted that the *Boone* court "…affirmed the PTAB's finding that the canopies, decks, porches, and garages were not taxable as real property and are, instead, properly classified as personal property."

[1] The appellant submitted a total of eighteen property record cards noting that "[t]he buildings listed on Cards 3 through 18 are owned by the individual mobile homeowners that rent lots from the Appellant in the mobile home park owned by her."

[2] The property record card associated with the improvements at issue depict a total of six garages, seven sheds, two "frame" structures, and one screened-in porch.

Based on this evidence and argument, the appellant requested a reduction in the subject's improvement assessment of $130,783.[3]

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property. However, upon the request by the Property Tax Appeal Board, the board of review filed a certificate of service confirming that all taxing districts have received notification of the appeal as required by section 16-180 of the Property Tax Code (35 ILCS 200/16-180). No taxing districts have filed a request to intervene in this appeal.

Conclusion of Law

The appellant argues as a matter of law that the subject's improvement assessment should be limited to only the improvements owned by appellant and should not include garages, sheds, and other structures owned by mobile homeowners who rent lots from the appellant. When a contention of law is raised the burden of proof is a preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellant met this burden of proof and a reduction in the subject's improvement assessment is warranted.

Initially, the issue of whether structures such as garages or storage sheds constitute assessable improvements so affixed to the real property as to become an essential part thereof is a mixed question of law and fact. *Boone County Board. of Review v. Property Tax Appeal Board*, 276 Ill. App. 3d 989, 659 N.E.2d 72 (2d Dist. 1995) citing *Davis Store Fixtures, Inc. v. Cadillac Club* (1965), 60 Ill. App. 2d 106, 110, 207 N.E.2d 711. The court in *Boone* noted, this "… determination begins with the application of a statutory test and continues with the application of judicially created tests. The former focuses on the assessing jurisdiction's classification of the property prior to January 1, 1979. If the taxpayer has not met his burden of proving the pre-1979 tax treatment of the property in question, courts classify the item pursuant to criteria set forth in Illinois case law." *Boone County Board. of Review v. Property Tax Appeal Board*, 276 Ill. App. 3d 989, 659 N.E.2d 72 (2d Dist. 1995).

As neither the Property Tax Code nor the Mobile Home Local Services Tax Act expressly address the assessment of garages and/or sheds or other structures placed by tenants within a mobile home park the Board will progress with its statutory analysis.

Section 24-5 of what is commonly called the Freeze Act states in part:

> No property lawfully assessed and taxed as personal property prior to January 1, 1979, or property of like kind acquired or placed in use after January 1, 1979, shall be classified as real property subject to assessment and taxation. No property lawfully assessed and taxed as real property prior to January 1, 1979, or property of like kind acquired or placed in use after January 1, 1979, shall be classified as personal property. (35 ILCS 200/24-5).

[3] As the subject mobile home site includes two improvements owned by the appellant in addition to improvements owned by tenants as noted on the property record cards submitted into evidence, the Board finds that the appellant appears to request that only the improvements owned by the appellant be assessed.

The evidence in the record herein contains the subject's property record card suggesting that the structures in question were not assessed as real property prior to the tax year 2022 at issue which was not contested by the board of review. However, the record is insufficient for the Board to determine whether or not the structures at issue were taxed as personal property pursuant to the mandates set forth in the Freeze Act above. Therefore, the Board finds the appellant did not meet the initial statutory burden of proof as there is no evidence in the record indicating how the buildings in question (or like buildings located within a mobile home park) were treated by the Coles County township assessors prior to 1979. Therefore, the Board will next look to the Illinois case law to determine how the buildings at issue should be classified for the 2022 tax year. *See id.*

In *Boone County Board. of Review v. Property Tax Appeal Board*, 276 Ill. App. 3d 989, 659 N.E.2d 72 (2d Dist. 1995), the Illinois Appellate Court considered the assessments of certain additions such as garages, porches, etc. that were constructed by mobile homeowners who were leasing lots in a mobile home park. The garages and enclosed porches were specifically noted to be placed on concrete, some with footings and others on four- to five-inch-thick concrete floating slabs without footings. The *Boone* court upheld the findings of the Property Tax Appeal Board that items such as porches and garages in a mobile home park placed on the property by the tenants and owners of the mobile homes were not assessable as real property based on the following facts:

> (1) the mobile homes themselves were not considered real property by the assessment officials; (2) mobile homeowners must obtain the approval of management to make additions and alterations to the mobile homes; (3) most of the canopies and decks were not affixed to the land but, rather, to the mobile homes themselves; (4) the garages and enclosed porches were resting on concrete slabs, which generally had no footings; (5) the improvements constructed by the mobile homeowners were not intended by the mobile home park owners to permanently improve the real estate; (6) the "items in question" are not required by the park owner; (7) the items are purchased and installed by the mobile homeowners; and (8) the items are removed when the mobile home leaves the park, unless the mobile home is resold to a different individual. *Id.*

On this record, the Board makes the following findings: 1) The mobile homes themselves are not assessed as real property; 2) the buildings in question were not assessed prior to tax year 2022; 3) the garages and sheds in question were placed on the rented lots voluntarily by the tenants; 4) if the mobile homes themselves are not intended to be permanent, a reasonable inference can be made that the structures such as garages, sheds and an enclosed porch associated with the mobile homes likewise are not intended to be permanent; 5) although the buildings themselves have value to the mobile homeowners, there is no evidence that the buildings in question add any value to the mobile home park itself; and 6) the photographs depict the buildings in question to either lack permanent foundations (sheds) or appear to be placed on concrete slab foundations (garages), neither of which was found to be permanent foundations by the *Boone* court so as to render these structures in the mobile home park assessable.

Furthermore, in upholding the factual findings of the Property Tax Appeal Board in *Boone*, the Illinois Appellate Court relied on the Illinois Supreme Court decision in *St. Louis v. Rockwell Graphic Systems, Inc.* (1992), 153 Ill. 2d 1, 4, 178 Ill. Dec. 761, 605 N.E.2d 555, holding as follows:

> The Illinois Supreme Court has set forth the relevant criteria to determine what constitutes an 'improvement to real property.' …. Relevant criteria for determining what constitutes an 'improvement to real property' include: **whether the addition was meant to be permanent or temporary, whether it became an integral component of the overall system, whether the value of the property was increased, and whether the use of the property was enhanced.** *Citing St. Louis v. Rockwell Graphic Systems, Inc.* (1992), 153 Ill. 2d 1, 4, 178 Ill. Dec. 761, 605 N.E.2d 555. at 4-5. (Emphasis added).

As to the first criteria with regard to the intent for the structures to become permanent, the Board finds that uncontroverted evidence in this record is that the structures at issue "are owned by the individual mobile homeowners that rent lots from the Appellant in the mobile home park owned by her" as the appellant's counsel argues. The board of review presented no evidence that the structures at issue herein were intended to be permanent additions to the mobile home park. The Board is cognizant of the fact that it is not possible to determine from the photographs in the record as to the foundations of the buildings in question. However, the court in *Boone* found this to be not a factor in a case that involved enclosed porches and garages that were specifically noted to be placed on concrete, some with footings and others on four- to five-inch-thick concrete floating slabs without footings. *See Boone County Board. of Review v. Property Tax Appeal Board*, 276 Ill. App. 3d 989, 659 N.E.2d 72 (2d Dist. 1995).

Next, as to the second criteria of whether the structures at issue became "an integral component" of the mobile home park as a whole, the record is clear that the structures at issue are not the property of the appellant (owner of the mobile home park) but rather belong to the tenants who placed these structures voluntarily on the rented lots. While these structures may benefit the individual tenants, there is no evidence that they are necessary, vital, essential, or "integral" part of the mobile home park as a whole. Consequently, the Board finds that the structures at issue are not integral components of the mobile home park as a whole.

The Board next considers the third and fourth criteria of whether the value of the entire mobile home park was increased, and whether the use of the buildings at issue enhanced the mobile home park as a whole. The Board finds the only evidence in the record, uncontested by the board of review, is that the buildings in question were not owned by the appellant and were not assessed until the 2022 tax year on appeal herein as depicted on the subject's property record card. The Board further finds that nothing in the record suggests that the value of the mobile home park as a whole was increased by the presence of the structures at issue or that the mobile home park would decrease in value by their removal. *See Boone*.

In conclusion, based on this record, the Property Tax Appeal Board finds that the buildings in question were placed on the rented lots by the tenants, belong exclusively to the tenants, were not assessed prior to tax year 2022 at issue, and were not intended to be permanent structures in the mobile home park. To be clear, the Board makes no findings as to whether or not the structures in

question cannot be assessed as a general rule as the Board's factual findings are limited to only the evidence presented in this appeal. Therefore, the Board finds that the appellant demonstrated by a preponderance of the evidence that the structures in question should not be assessed for the 2022 tax year and a reduction in the subject's improvement assessment commensurate with the appellant's request is warranted.

APPELLANT:	**City of Urbana**
DOCKET NUMBER:	**21-06203.001-C-2**
DATE DECIDED:	**June 2024**
COUNTY:	**Champaign**
RESULT:	**Reduction**

The parties appeared before the Property Tax Appeal Board on February 27, 2024 for a hearing at the Property Tax Appeal Board's office in Springfield pursuant to prior written notice dated December 20, 2023. Appearing at the hearing on behalf of the appellant was attorney, David B. Wesner, of Evans, Froehlich, Beth & Chamley; appearing on behalf of the Champaign County Board of Review were John Bergee, chairman of the board of review, and Chris Diana, member of the board of review; and appearing on behalf of owner-intervenor, First Federal Savings Bank of C-U, was attorney Rebecca E. P. Wade, of Meyer Capel, P.C.[1]

Both the appellant, seeking an increase in the subject's assessment, and the owner-intervenor, seeking a decrease in the subject's assessment, separately filed written motions to consolidate this appeal with Docket No. 21-05943.001-C-2. It was argued both appeals concern the same subject property, the same tax year assessment, and common issues of fact and law. At hearing, the parties agreed to the consolidation of this appeal with Docket No. 21-05943.001-C-2 and the Administrative Law Judge ("ALJ") granted the motion to consolidate these two appeals pursuant to Section 1910.78 of the Board's procedural rules (86 Ill. Admin. Code §1910.78).[2]

The subject property consists of a 3-story apartment building of brick exterior construction with 9,576 square feet of gross building area. The building was constructed in 1966. Features of the building include a concrete slab foundation and 12 apartment units, consisting of 11 two-bedroom units and 1 one-bedroom unit, totaling approximately 8,520 square feet of rentable area. The property has an approximately 12,000 square foot site and is located in Urbana, Cunningham Township, Champaign County.

Appellant's Evidence

The appellant's appeal is based on undervaluation. In support of this argument, the appellant submitted evidence disclosing the subject property was purchased on November 20, 2021 for a price of $760,000. The appellant partially completed Section IV – Recent Sale Data of the appeal petition disclosing the parties to the sale were not related, the property was advertised for sale, and the sale was not by contract for deed.

In support of the sale, the appellant submitted a copy of the Real Estate Transfer Declaration (the "RETD") with a Declaration ID 20211101045759, indicating the property sold on November 30, 2021 and was advertised for sale. It was not indicated that the sale was between related parties. The RETD identifies the owner-intervenor as the seller and Silver St, LLC as the buyer, and

[1] References to the transcript of the hearing will be indicated by "TR" followed by the page number(s).
[2] TR p. 5-6.

contains no signatures for either buyer or seller. At hearing, Wesner explained the RETD is digital, no longer contains signatures, and has a Declaration ID number that indicates it was filed.[3]

The appellant also submitted a brief contending that the owner-intervenor listed the subject for sale on July 2, 2021 for a price of $879,900 and subsequently sold the subject on November 20, 2021 for a price of $760,000. The appellant argued the subject's arm's length sale is the best evidence of its fair cash value. The appellant submitted assessment information for the subject, which includes a description of the November 2021 sale of the subject, and a Realtor.com printout for the subject's sale, disclosing the subject was listed on July 2, 2021 for $879,900.

At hearing, Wesner asserted a sale is presumed to be arm's length unless the evidence shows it was not and contended the documents in the record indicate this sale was arm's length as it was advertised and the buyer and seller do not appear to be related parties.[4]

The ALJ asked Wesner whether the condition of the subject as of the assessment date should be considered in assessing the property. Wesner responded that the condition of the subject property as of the assessment date is unclear and that deferred maintenance should not reduce an assessment. Wesner acknowledged the subject was condemned by the appellant, City of Urbana, in 2020 and a certificate of occupancy was issued in June 2021.[5] In closing argument, the appellant's counsel contended there was insufficient evidence to demonstrate the condition of the subject as of the assessment date and argued the subject's sale price reflects its condition at least from early summer 2021.[6]

Based on this evidence, the appellant requested an increase in the subject's assessment to reflect the purchase price, or in the alternative, to reflect a value of $540,000, which is the sale price less the cost of repairs ($220,000) disclosed in the owner-intervenor's appraisal.[7]

Board of Review's Evidence

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $125,720. The subject's assessment reflects a market value of $376,859, or $39.35 per square foot of gross building area, or $31,405 per apartment unit, land included, when using the 2021 three year average median level of assessment for Champaign County of 33.36% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a brief contending that the subject's assessment reflects the corrected 2020 tax year assessment ($122,060) plus an equalization factor of 1.030 for 2021. The board of review explained the subject's 2020 assessment was increased by the township assessor as a result of the owner failing to return the township assessor's survey regarding the subject's improvements. The board of review presented a copy of the township assessor's letter to the owner, indicating the township

[3] TR p. 9-10.
[4] TR p. 12-14.
[5] TR p. 17-19.
[6] TR p. 61-62.
[7] TR p. 62.

assessor would assume the property had four-bedroom/four-bathroom units unless otherwise confirmed.

Following a decision by the circuit court in favor of the owner, the board of review explained the subject's 2020 tax year assessment was reduced to $122,060, which was calculated as the subject's 2019 tax year assessment plus an equalization factor of 1.00 for 2020. The board of review presented a page showing the case caption for this litigation. The board of review also submitted a Parcel Detail sheet, which indicated the subject had a 2019 tax year assessment of $122,060, a 2020 tax year assessment of $366,180, and a corrected 2020 tax year assessment of $122,060.

The board of review asserted in its brief that the subject was in poor condition, unoccupied, and condemned by the City of Urbana as of the January 1, 2021 assessment date. The board of review contended the subject sold after considerable remodeling and rehabilitation. The board of review submitted a letter dated July 7, 2021, from the owner-intervenor to the board of review, advising that the owner-intervenor became the mortgagee in possession of the subject on February 19, 2020 and subsequently the owner of the subject property by Sheriff's Deed on March 3, 2021.

At hearing, chairman Bergee argued the subject's condition at the time of its sale in November was vastly different than its condition as of the January 1, 2021 assessment date.[8] Bergee stated the board of review was aware the subject had been condemned, but did not make any adjustments to the assessment from the prior year, other than adding the equalization factor. Bergee concluded the November 2021 sale of the subject was more relevant to the next tax year's assessment.[9] On cross-examination by the owner-intervenor, Bergee confirmed the subject's November 2021 sale was the first sale of the property after the owner-intervenor obtained it through foreclosure proceedings.[10]

The ALJ asked Bergee how the county assesses construction that occurs during the year when a property is uninhabitable. Bergee testified the board of review always uses the assessment date, but township assessors may either prorate or assess in the next tax year. Bergee stated Cunningham Township has been inconsistent, but proration is more likely with new construction than renovation. Board member Diana agreed Cunningham Township is inconsistent, but stated renovations or additions are typically picked up in the following tax year. Bergee confirmed the county does prorate assessments after destruction of the improvements, which is based on a percentage of damage that is certified by a third party, like an insurance company. Diana explained an owner could also seek a reduction for destruction from the township assessor as a correction outside the usual board of review complaint process.[11]

In closing argument, Diana contended there was no material change in the condition of the subject as of the assessment date from the prior tax year. Diana reiterated the board of review looks at a value as of the assessment date and any improvements would be captured the next year.[12] Based on this evidence, the board of review requested confirmation of the subject's assessment.

[8] TR p. 6.
[9] TR p. 20-21.
[10] TR p. 27.
[11] TR p. 31-35.
[12] TR p. 63.

Owner-Intervenor's Evidence

The owner-intervenor submitted an appraisal prepared by Robert D. Becker, a certified general real estate appraiser, for ad valorem tax purposes, estimating the subject had a market value of $320,000 as of January 1, 2021 (the "Becker Appraisal").

The owner-intervenor called its witness, Becker, who testified regarding his professional certifications and designations.[13] The Becker Appraisal includes a summary of the appraiser's affiliations, education, experience, certifications, and other qualifications.[14]

Becker testified he inspected the subject property on July 27, 2022, after the renovations were complete. The subject had one tenant at that time but was being marketed for rent. In order to determine the condition of the subject as of the assessment date, Becker interviewed the property manager; appraiser Steve Whitsitt, who had previously prepared an appraisal of the subject; and Tyler Rouse, an administrator or manager of the owner-intervenor. Becker obtained historic photographs of the subject from Rouse and Whitsitt dating from late 2020. Becker testified he relied on the interviews, photographs, and revocation of the subject's occupancy permit to determine the subject's condition as of the assessment date.[15]

Becker reported the property sold in November 2021 after the repairs were completed. Becker made adjustments to this sale price to test the reasonableness of the Becker Appraisal value conclusion. Becker made adjustments for more favorable market conditions, repairs to the subject, and for market rents to compute an adjusted price of $359,450.[16] Becker concluded the marketing time for the subject would be three to six months based on averages ranging from 3.9 to 5.3 months in PriceWaterhouseCoopers National Apartment investor surveys from 2020 Q1 to 2021 Q1.[17]

On cross-examination by the board of review, Becker testified advertising on the open market is one factor of an arm's length sale, but explained other details of the sale must be examined to determine whether it was arm's length.[18] Upon questioning by the ALJ, Becker testified he did not speak to Rouse about the subject's sale but reviewed the RETD, assessor's information, and listing information about the sale. Becker stated he did not make any conclusion regarding whether the subject's November 2021 sale was arm's length.[19]

Regarding the subject's condition as of the assessment date, Becker reported the subject had significant deferred maintenance, such as fire and smoke damage to one unit, water damage from a leaking roof; window and floor coverings that were broken, missing, or at the end of their useful life; paint at the end of its useful life; damaged cabinets; and damaged drywall. Becker reported the property was renovated from October 2020 to June 2021. Becker stated the roof and other exterior items had been replaced or repaired and graffiti had been removed from exterior walls as of the assessment date. With regard to the interior of the subject building, Becker stated new

[13] TR p. 38-39.
[14] Becker Appraisal, p. 68-71.
[15] TR p. 39-40, Becker Appraisal, p. 8.
[16] Becker Appraisal, p. 5.
[17] Becker Appraisal, p. 6.
[18] TR p. 49-50.
[19] TR. p. 52.

furnaces and wall air conditioning units had been installed, but no other interior work was done as of the assessment date. Becker reported an occupancy permit for the subject was issued on June 16, 2021.[20]

On cross-examination by the board of review, Becker distinguished between typical maintenance items and deferred maintenance items, which he described are immediate repair items, such as roofs, HVAC systems, and other health and safety items, and explained are used to make condition adjustments to the comparable sales.[21] Upon questioning by the ALJ, Becker testified he obtained information about the subject's mechanical systems from Whitsitt and Rouse and reviewed photographs depicting graffiti to the walls.[22]

Becker concluded the highest and best use of the subject as vacant was for development as a multi-family dwelling and its highest and best use as improved was continued use as a multi-family dwelling.[23] To estimate the value of the subject property, Becker developed the sales comparison and income approaches to value. Becker did not develop the cost approach due to the age of the improvements and lack of market data to support an estimate of accrued depreciation.[24]

Under the sales comparison approach, Becker selected three comparable sales located in Urbana. The comparables are improved with apartment buildings that were built from 1969 to 1987 and have 18 to 24 apartment units. The comparables sold in April 2018 or October 2019 for prices ranging from $650,000 to $925,000 or from $27,083 to $40,278 per unit, including land. Becker made adjustments to the comparables for market conditions of 2.5% or 5.5% and applied a condition adjustment of -$284,000 to each comparable. Becker developed the condition adjustment based on the cost of renovations reported by the owner to have been spent after the assessment date ($220,000), plus entrepreneurial incentive of 20% ($44,000), which Becker asserted was appropriate given incentives for this type of project ranging from 5% to 30% and the extensive renovations required. Becker also added to the adjustment an amount for carrying costs of the subject property until it could be leased to 90% occupancy ($20,000). This lease-up calculation is found in the income approach section of the Becker Appraisal discussed below. Becker computed adjusted sale prices ranging from $15,825 to $28,867 per unit and concluded an indicated value for the subject of $26,667 per unit, or $320,000 rounded, under the sales comparison approach.[25]

Becker explained on questioning by the ALJ that the comparables were productive units at the time of sale. Becker stated he could not find any recent sales of properties in an uninhabitable condition.[26] Becker testified he did not adjust for building size because the market treats buildings with 8 to 30 units about the same. Becker explained buildings with 8 to 30 units do not usually have extra amenities, such as a fitness center, but still require commercial loans.[27]

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[20] Becker Appraisal, p. 30.
[21] TR p. 51.
[22] TR. p. 53.
[23] Becker Appraisal, p. 39-40.
[24] Becker Appraisal, p. 41.
[25] Becker Appraisal, p. 43-48.
[26] TR p. 55.
[27] TR p. 56.

Under the income approach, Becker first computed a value for the subject assuming the subject had been renovated and in leasable condition, then made deductions to reflect the costs of placing the subject in such condition. Becker began the analysis by examining rent comparables. Becker selected four 2-bedroom rent comparables located in Urbana. These comparables range in size from 550 to 766 square feet of living area, were built from 1965 to 1987, and have annual rents per unit ranging from $7,200 to $8,796. Becker made adjustments to the comparables for differences from the subject in location and condition to conclude annual market rent of $7,800 per unit for the subject's 2-bedroom units.[28] Becker also did an analysis by selecting three 1-bedroom rent comparables located in Urbana. These comparables range in size from 520 to 611 square feet of living area, were built from 1969 to 1980, and have annual rents ranging from $6,732 to $8,592 per unit. Becker made adjustments to the comparables for differences from the subject in condition to arrive at an annual market rent of $8,500 for the subject's 1-bedroom unit. Becker concluded potential gross income for the subject of $94,300.[29]

For vacancy and collection losses, Becker stated market participants expect a vacancy and credit loss of 5% to 15% for similar types of property. Becker estimated 10% to reflect the probable vacancy during the subject's economic life rather than its present short term vacancy. Becker computed $9,430 for vacancy and collection losses, resulting in effective gross income of $84,870.[30]

To estimate expenses, Becker examined three expense comparables located in Urbana having expense ratios ranging from 47.0% to 51.2%. Becker did not describe the expenses included in this analysis. Becker also looked at CoStar market extracted ratios of 45.85% and 49.97% for 2020 and 2021, respectively, for the Champaign-Urbana market. These ratios include real estate taxes. Becker also consulted a 2019 International Real Estate Management national expense survey detailing expenses for repairs and maintenance, utilities, management fees, and administrative fees and a PriceWaterhouseCoopers Real Estate Investors Survey for replacement reserves. Based on estimates derived from the ranges found in these surveys, Becker concluded expenses of 25.3% or $21,477 for the subject. After subtracting expenses from effective gross income, Becker concluded net operating income of $63,393.[31]

Becker next calculated a capitalization rate. Becker examined market extracted rates from three comparables located in Urbana ranging from 6.94% to 8.05%, with an average of 7.52%; national investor surveys with rates ranging from 5.04% to 5.22%; and a RealtyRates survey for the Apartments – Garden/Suburban Townhouse category with rates ranging from 3.82% to 10.74%, with an average of 7.11%. Becker gave less weight to the national investor surveys as the most likely buyer for the subject is a regional or local investor, but found the RealtyRates survey was similar to the market extracted rates. Becker also computed a rate of 6.88% under the band of investment method. Based on the foregoing, Becker concluded a capitalization rate of 7.00% and a loaded capitalization rate of 10.59%.[32]

[28] Becker Appraisal, p. 50-52.
[29] Becker Appraisal, p. 53-54.
[30] Becker Appraisal, p. 55.
[31] Becker Appraisal, p. 55-57.
[32] Becker Appraisal, p. 58-61.

Based on this loaded capitalization rate and the estimated net operating income, Becker computed a value for the subject of $600,000, rounded. However, Becker then deducted the cost of the renovations since the assessment date ($222,000) plus entrepreneurial incentive of 20% and costs to lease the subject to 90% occupancy ($20,000), totaling $284,000. To calculate the lease-up costs, Becker estimated a lease-up period of six months, estimated lost rental income of $15,576, marketing costs of $2,200, and profit of $889. After these adjustments, Becker concluded an indicated value for the subject of $320,000 under the income approach.[33]

Upon questioning by the ALJ, Becker explained he estimated two units per month for the lease-up calculation based on the market for similarly sized buildings and CoStar lease activity. Becker explained he calculated profit based on a typical 5% management fee.[34]

In reconciliation, Becker gave most weight to the income approach, which he stated is more appropriate for income producing properties when the most likely buyer of the subject is an investor. Becker gave the sales comparison approach secondary weight due to limited recent sales of properties in similar condition to the subject as of the assessment date. Becker concluded a market value of $320,000 for the subject as of January 1, 2021.[35]

The owner-intervenor also submitted a brief contending that the best evidence of the subject's market value is the Becker Appraisal. At hearing, Wade argued the evidence does not establish the subject's November 2021 sale was an arm's length sale. Wade further argued the subject's sale occurred less proximate in time to the assessment date.[36] Upon questioning by the ALJ, Wade agreed the owner-intervenor was a party to the November 2021 sale, but Wade stated she had no information about this sale.[37]

In closing argument, Wade asserted the subject's condition was very different on January 1, 2021 as compared to its sale date in November 2021. Wade argued the best evidence of market value as of January 1, 2021 is the Becker Appraisal.[38] Based on this evidence, the owner-intervenor requested a reduction in the subject's assessment to reflect the appraised value conclusion.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation in that the subject has been undervalued. 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 an increase in the subject's assessment is not warranted. Furthermore, the Board finds the record evidence supports the owner-intervenor's request for a reduction in the subject's assessment

[33] Becker Appraisal, p. 61-62.
[34] TR p. 57-58.
[35] Becker Appraisal, p. 62-63.
[36] TR p. 7-9.
[37] TR p. 58-59.
[38] TR p. 64.

As an initial matter, the parties have raised the issue of the subject's condition as of the assessment date and the effect of renovations to the subject during the 2021 tax year on the subject's 2021 tax year assessment. Both the owner-intervenor and the board of review contended the subject's condition as of the assessment date was substantially different from its condition as of the subject's November 2021 sale date and argued the subject should be valued in its condition as of the assessment date. The appellant conceded the subject's November 2021 sale price reflects the subject's market value only since early summer 2021, when the renovations were complete, but argued there was insufficient evidence to show the condition of the subject as of the assessment date.

The Board finds the only evidence of the subject's condition is found in the Becker Appraisal. Becker testified at hearing in support of the Becker Appraisal. Based on Becker's experience and qualifications as demonstrated in the Becker Appraisal and Becker's testimony, the Board finds Becker is qualified as an expert in his field.

Becker testified the description of the subject's condition was based on photographs of the subject from late 2020 and interviews with the property manager, an appraiser who previously inspected and appraised the subject, and a representative of the owner. The Board finds this information formed a sufficient basis for Becker to make conclusions regarding the subject's condition as of the assessment date.

Becker reported significant deferred maintenance items remained unaddressed on the interior of the subject building as of the assessment date and these items continued to render the subject uninhabitable. At hearing, Becker distinguished between typical maintenance items and deferred maintenance items, which he described as immediate repair items, such as health and safety items. The Board finds it is undisputed that the subject did not receive a certificate of occupancy until June 2021. Becker reported renovations totaling $220,000 were performed after the assessment date, which was also not disputed. Based on this record, the Board finds the subject had significant deferred maintenance items as of the assessment date.

The Board further finds renovations and additions during a tax year are not typically prorated within Champaign County. Both Bergee and Diana testified that proration would not be typical for renovations and additions, although proration may be used for new construction or destruction of improvements during the year. Thus, the Board finds, based on county assessment practices, it is not appropriate to prorate the subject's assessment for renovations made during the 2021 tax year.

With respect to market value as of the assessment date, the appellant submitted evidence of a November 2021 sale of the subject and the owner-intervenor submitted an appraisal estimating a market value for the subject as of the assessment date in support of their respective positions before the Board.

As an initial matter, the Board finds the evidence demonstrates the November 2021 sale was an arm's length sale. The record contains the RETD, which indicates the property was advertised for sale, and Realtor.com printouts, disclosing the subject was listed for sale on July 2, 2021 for $879,900. The Board finds the owner-intervenor's questioning of this sale to be disingenuous, as the owner-intervenor was the seller in this transaction and knows or should know whether it was an arm's length sale.

Nonetheless, the Board gives less weight to the November 2021 sale of the subject. It is undisputed that the subject was in the process of being renovated, was unoccupied, and had been condemned by the appellant, City of Urbana, as of the assessment date. As discussed above, the Board finds the subject had significant deferred maintenance items as of the assessment and the owner spent $220,000 to restore the subject to a habitable condition since the assessment date. It is further undisputed that the subject sold in November 2021 after the renovations were complete and a certificate of occupancy was issued for the subject in June 2021 so it was able to be occupied in June 2021. Thus, the Board finds the subject's November 2021 sale price is not reflective of its market value as of the January 1, 2021 assessment date due to the subject's state of disrepair.

For the Becker Appraisal, Becker developed the income and sales comparison approaches to value and gave the most weight to the income approach. Under the income approach, Becker first estimated a value for the subject as renovated and in a leasable condition and then subtracted the costs that would be incurred to achieve this condition. The Board finds this methodology was warranted in order to consider market income and expenses for the subject, while providing for the subject's unleasable condition as of the assessment date. The Board further finds Becker selected similar 1-bedroom and 2-bedroom rent comparables and made appropriate adjustments for differences in location and/or condition. Consequently, the Board accepts Becker's conclusion of potential gross income for the subject of $94,300.

With respect to vacancy and collection losses, Becker determined a vacancy rate of 10% or $9,430 based on the expectations of market participants for similar types of property. Thus, the Board agrees with the conclusion that the subject had effective gross income of $84,870 (calculated as $94,300 - $9,430).

For expenses, Becker examined both market extracted expenses ratios derived from the Champaign-Urbana market and ratios derived from national investor surveys. The Board finds the estimated expenses for the subject of 25.3% or $21,477 were reasonable and result in net operating income of $63,393.

Becker examined several data sources and used market extraction, investor surveys, and the band of investment method to compute a capitalization rate of 7.00% to which Becker added an effective tax rate to arrive at a capitalization rate of 10.59% The Board finds this capitalization rate was supported. Applying this rate to the net operating income computed above results in a value of $600,000, rounded.

Becker next deducted the cost of renovations since the assessment date totaling $220,000. The Board finds this deduction was supported by the Becker Appraisal and Becker's testimony regarding the subject's deferred maintenance. The Board further finds the cost of the renovations since the assessment date was not disputed by the appellant or the board of review.

Becker also added 20% entrepreneurial profit to these costs, which the Board finds was not supported. Although Becker described a typical range of incentives for this type of project, Becker did not address an appropriate incentive when a mortgagee/owner, which acquired a property through foreclosure proceedings, makes improvements to recoup its loan and expenses, rather than to develop an income-producing property as would be the incentive of the regional or local investor

Becker identified as the likely buyer of the subject. Accordingly, notwithstanding whether Becker's conclusion may be appropriate for renovations made by an investor, the Board finds Becker did not explain how the same conclusion is appropriate for a mortgagee/owner with a different objective and incentive than an investor.

Finally, Becker deducted for lease-up costs of $20,000, which the Board finds was appropriate as the subject was unleasable as of the assessment date. Based on these deductions, the Board finds the subject had a market value of $360,000 (calculated as $600,000 - $220,000 - $20,000) under the income approach.

For the sales comparison approach, the Board finds Becker selected similar comparables. However, with respect to the condition adjustment, the Board finds Becker's adjustment of $284,000 to each comparable was excessive. As discussed above, this adjustment includes $220,000 for renovation costs since the assessment date, 20% for entrepreneurial incentive, and $20,000 for lease-up costs. As discussed above the Board finds deductions of $220,000 for renovation costs and $20,000 for lease-up costs were appropriate and supported. However, as discussed above, the Board finds the deduction for 20% entrepreneurial incentive was not appropriate or supported. Based on the foregoing, the per unit adjusted sale prices of the comparables would be approximately $1,833 or $2,444 higher ($44,000/24 and $44,000/18) and the subject should have a value approximately $3,667 higher per unit ($44,000/12), or $30,435 per unit, resulting in a revised estimated value for the subject under the sales comparison approach of $365,000. The Board finds this conclusion under the sales comparison approach supports the value developed under the income approach of $360,000. The Board agrees with Becker that the income approach should be given primary weight as the subject is an income-producing property.

Based on this record, and with the above detailed adjustments to the appraisal evidence, the Board finds the subject property had a market value of $360,000 as of January 1, 2021. Since market value has been determined the 2021 three year average median level of assessment for Champaign County of 33.36% shall apply. 86 Ill. Admin. Code § 1910.50(c)(1). Thus, the Board finds a reduction in the subject's assessment is warranted.

2024 COMMERCIAL CHAPTER
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[Items Contained in Italics Indicate Arguments or Evidence in Opposition to the Appellant's claim]

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2024 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

2024 INDUSTRIAL CHAPTER

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APPELLANT:	**Florida Metrology LLC/dba. ACME Metro**
DOCKET NUMBER:	**22-03273.001-I-1**
DATE DECIDED:	**April 2024**
COUNTY:	**DuPage**
RESULT:	**No Change**

The subject property consists of a 1-story industrial building of masonry exterior construction with 12,820 square feet of gross building area.[1] The building was constructed in 1978. Features of the subject include a concrete slab foundation, a 14.75 foot ceiling height with a 17 foot exterior building height, one drive-in door, one dock, and 17.2% or 2,205 square feet of office area. The property has a 44,637 square foot site and is located in Villa Park, Addison Township, DuPage 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 $760,000 as of January 1, 2020. The appraisal was prepared by David Conaghan, a certified general real estate appraiser, and Tom J. Boyle, Jr., an associate real estate trainee appraiser, for ad valorem tax purposes. The subject property was inspected on November 23, 2020.

Under the income capitalization approach, the appraisers selected four rent comparables located in Villa Park ranging in size from 2,400 to 7,500 square feet of leased area. The comparables have rents ranging from $8.00 to $9.50 per square foot. The appraisers noted the subject is owner-occupied. The appraisers made adjustments to the rent comparables for differences from the subject in building size and lease basis to arrive at adjusted rents ranging from $7.76 to $10.07 per square foot on a modified gross lease basis. Based on these comparables, the appraisers concluded $8.70 per square foot market rent for the subject or $111,534 in potential gross income.

The appraisers next estimated vacancy and collection losses of 5.0% or $5,577 based on an analysis of current market conditions and data obtained from the CoStar Analytics tool. After subtracting vacancy and collection losses from potential gross income, the appraisers computed effective gross income of $105,957.

The appraisers then estimated expenses for the subject of 27.7% or $29,374 based on an analysis of similar properties. After subtracting expenses from effective gross income, the appraisers calculated net operating income of $76,583.

For the capitalization rate, the appraisers used the mortgage-equity technique to develop a rate of 8.00% and a loaded rate of 10.40%. The appraisers then computed a value of $736,000 rounded based on the estimated net operating income and loaded capitalization rate.

[1] The parties differ regarding the subject's building size. The Board finds the best evidence of the subject's building size is found in the appellant's appraisal, which contains a sketch with measurements based on an inspection in November 2020 compared to the subject's property record card which contains an undated sketch with measurements.

Under the sales comparison approach, the appraisers selected five comparable sales located in Addison or Villa Park. The parcels range in size from 26,283 to 43,317 square feet of land area and are improved with industrial buildings ranging in size from 11,750 to 18,640 square feet of gross building area. The buildings were constructed from 1960 to 1980. Each comparable has a ceiling height ranging from 12 to 16 feet, one or two docks, one or two drive-in doors, and from 8.5% to 27.5% office area. The comparables sold from July 2017 to August 2019 for prices ranging from $600,000 to $1,000,000 or from $51.06 to $71.55 per square foot of gross building area, including land. The appraisers adjusted the comparables for market conditions and for differences from the subject, such as building size, land-to-building ratio, ceiling clearance, office build-out, loading amenities, and age, to arrive at adjusted prices ranging from $52.07 to $75.08 per square foot. The appraisers concluded a value for the subject of $61.00 per square foot or $782,000 rounded.

In reconciliation, the appraisers gave equal weight to both approaches to conclude a value for the subject of $760,000 as of January 1, 2020.

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 $335,490. The subject's assessment reflects a market value of $1,006,571 or $78.52 per square foot of gross building area, including land, when using the statutory level of assessment of 33.33%.[2]

In support of its contention of the correct assessment the board of review submitted information on eleven comparable sales presented in two grid analyses and renumbered as comparables #1 through #11. The comparables are located in Addison, Itasca, and Wood Dale. The parcels range in size from 23,000 to 36,500 square feet of land area and are improved with industrial buildings ranging in size from 9,166 to 14,500 square feet of gross building area. The buildings were constructed from 1966 to 1981. The comparables are single-tenant buildings, except for comparable #3 which has two units. Each comparable has an exterior building height ranging from 15 to 22 feet, two to six overhead doors, and from 5.34% to 30.89% of office area. The comparables sold from November 2017 to October 2021 for prices ranging from $642,500 to $1,275,000 or from $58.69 to $103.64 per square foot of gross building area, including land. The board of review submitted Real Estate Transfer Declarations for these sales, with comparable #11 indicated to not have been advertised for sale.

The board of review submitted a brief contending the subject's assessment was reduced by the Property Tax Appeal Board for the 2020 tax year. The board of review stated the subject's 2022 tax year assessment reflects the Board's decision for the 2020 tax year plus an equalization factor of 1.044 for 2021 and 1.044 for 2022, which were applied to all non-farm properties in Addison

[2] Procedural rule Sec. 1910.50(c)(1) provides that in all counties other than Cook, the three-year county wide assessment level as certified by the Department of Revenue will be considered. 86 Ill.Admin.Code Sec. 1910.50(c)(1). Prior to the drafting of this decision, the Department of Revenue has yet to publish figures for tax year 2022.

Township. 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 record contains an appraisal submitted by the appellant and eleven comparable sales presented by the board of review. The Board gives less weight to the value conclusion presented in the appraisal as it states a value as of January 1, 2020 rather than the assessment date and relies on sales that occurred more remote in time from the assessment date and an income analysis that reflects market conditions more remote from the assessment date. Based on the foregoing, the Board will instead consider the raw sales data presented in the appraisal and by the board of review.

The record contains a total of sixteen comparable sales for the Board's consideration. The Board gives less weight to the appraisal sales #2 through #5 and the board of review's comparables #9, #10, and #11, which sold less proximate in time to the assessment date than other comparables in this record. Moreover, the evidence indicated the board of review's comparable #11 was not an arm's length sale as it was not advertised. The Board also gives less weight to the board of review's comparable #3, which is not a single-tenant property like the subject.

The Board finds the best evidence of market value to be the appraisal sale #1 and the board of review's comparables #1, #2, and #4 through #8, which sold more proximate in time to the assessment date and are relatively similar to the subject in building size, although these properties have smaller sites than the subject, suggesting upward adjustments to these comparables would be needed to make them more equivalent to the subject. These comparables sold for prices ranging from $600,000 to $1,275,000 or from $51.06 to $103.64 per square foot of gross building area, including land. The subject's assessment reflects a market value of $1,006,571 or $78.52 per square foot of gross building area, including land, which is within the range established by the best comparable sales in this record and appears to be supported given the subject's larger site size. 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.

APPELLANT:	**Paul H. Nguyen**
DOCKET NUMBER:	**23-03952.001-I-1**
DATE DECIDED:	**November 2024**
COUNTY:	**DeKalb**
RESULT:	**Reduction**

The subject property consists of a vacant 56,628 square foot site located in Sycamore, Cortland Township, DeKalb County.

The appellant contends both overvaluation and a contention of law as the bases of the appeal. In support of the overvaluation argument, the appellant submitted an appraisal estimating the subject property had a market value of $80,000 as of January 1, 2023. The appraisal was prepared by Lee Ovington, a certified general real estate appraiser.

The appraiser described the subject as being a corner lot that is zoned M-1 (manufacturing or industrial) with public utilities, sidewalks, and streetlights. The subject was further described as a generally level, rectangular shaped lot with good accessibility and traffic counts.

Under the sales comparison approach, the appraiser selected three comparable sales located from 0.89 of a mile to 2.55 miles from the subject. The parcels range in size from 10,621 to 94,500 square feet of land area and are zoned M-2, HI, or M-1 which the appraiser stated is similar zoning to the subject. The comparables sold from December 2021 to April 2023 for prices ranging from $45,000 to $122,000 or from $0.96 to $4.24 per square foot of land area.

The appraiser adjusted the comparables for differences from the subject in site size and to comparable #3 for its parking lot improvements to arrive at adjusted sale prices ranging from $29,271 to $30,476. Based on this analysis, the appraiser concluded a market value for the subject of $1.40 per square foot of land area or $80,000 rounded.

In support of the contention of law, the appellant submitted a brief contending that the subject's industrial zoning limits its use and impacts its market value, but the county assessing officials have not compared the subject to similarly zoned properties. The appellant asserted the county assessing officials incorrectly considered the future commercial zoning of the subject property in assessing the subject property and in the board of review proceedings. The appellant acknowledged owning an adjacent parcel that is zoned for commercial use.

The appellant also submitted a copy of a 2020 Official Zoning Map, which depicts the M-1 Light Manufacturing zoning on the southwest, northwest, and southeast corners of the intersection where the subject is located, including the subject on the southwest corner; C-3 Highway Business zoning surrounding these properties; and M-1 Light Manufacturing to the south of this area. The appellant submitted portions of the zoning ordinance depicting the permitted, special and temporary uses for each zoning classification.

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 $50,721. The subject's assessment reflects a market value of $152,178 or $2.69 per square foot of land area, when using the statutory level of assessment of 33.33%.[1]

In support of its contention of the correct assessment the board of review submitted information on three comparable sales located within 1 mile from the subject. The parcels range in size from 52,500 to 69,696 square feet of land area. The comparables sold from March 2021 to February 2023 for prices ranging from $119,000 to $243,900 or from $2.27 to $3.50 per square foot of land area.

The board of review submitted a brief explaining the subject is in a commercial/industrial neighborhood and the township assessor assessed the subject similarly to adjoining parcels as a commercial neighborhood regardless of zoning. The board of review argued appraisal sale #1 has more restrictive zoning than the subject; appraisal sale #2 is located in DeKalb rather than Sycamore and is zoned under DeKalb's zoning ordinance which was not presented by the appellant; and appraisal sale #3 is a much smaller lot than the subject and is improved with a parking lot unlike the subject. The board of review asserted its comparable #1 is zoned M-2 and an industrial building was constructed on this site after the sale. Comparables #2 and #3 are zoned C-3. The board of review contended its comparables are similar in size to the subject.

The board of review presented a Real Estate Transfer Declaration for the sale of two parcels, including the subject, in December 2022 for a price of $250,000. The Real Estate Transfer Declaration for this sale indicates the property was not advertised for sale and that it was the fulfillment of a 2012 installment contract.

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

In written rebuttal, the appellant presented a letter from the appellant's appraiser evaluating the board of review's comparables. With regard to comparable #1, the appraiser stated this sale was an assemblage of two adjacent properties with the adjacent property purchased one day later on March 15, 2021 for $1,100,000. The appraiser presented copies of articles relating to assemblages of land. With regard to comparable #2, the appraiser stated this property sold again on May 29, 2024 for a price of $55,000 or $0.98 per square foot of land area. With regard to comparable #3, the appraiser stated this sale was an assemblage transaction by an adjacent property owner to increase access to the site.

The appellant also presented assessment information for two equity comparables, one of which is farmland and one of which is vacant commercial land. Evidence of new comparable properties is not permitted in rebuttal, and thus, the Board shall not further consider these comparables. 86 Ill. Adm. Code § 1910.66(c) ("Rebuttal evidence shall not consist of new evidence such as an appraisal

[1] Section 1910.50(c)(1) of the Board's procedural rules provides that in all counties other than Cook, the three-year county wide assessment level as certified by the Department of Revenue will be considered. 86 Ill. Adm. Code § 1910.50(c)(1). As of the development of this Final Administrative Decision, the Department of Revenue has not published figures for tax year 2023.

or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence.").

Conclusion of Law

The appellant contends in part 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.Adm.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.Adm.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 three comparable sales and evidence of a December 2022 sale of the subject and other land in support of their respective positions before the Board. The Board gives less weight to the December 2022 sale of the subject as this sale included other land and sold by an installment contract.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant estimating the subject property had a market value of $80,000 as of January 1, 2023. The appraisal was completed using similar comparable properties compared to the subject, and contained appropriate adjustments to the comparable properties, which further advances the credibility of the report. The subject's assessment reflects a market value above the appraised value.

The Board finds the unadjusted comparable sales presented by the board of review do not overcome the weight given to the appellant's appraisal. Moreover, the appellant's appraiser disclosed in rebuttal that two of these sales were assemblage sales, one of which was a sale to an adjoining property owner, and one sale sold again more recently for considerably less. Based on this record, the Board finds a reduction in the subject's assessment commensurate with the appellant's request is justified.

The appellant further raises a contention of law as a basis of the appeal. The standard of proof on a contention of law is a preponderance of the evidence. (See 5 ILCS 100/10-15). The appellant's contention of law is based on the appropriateness of the comparable properties presented by the township assessor at the board of review proceedings. A challenge to an assessment of property is de novo before the Property Tax Appeal Board. Section 1910.63(a) of the rules of the Board's procedural rules states: "Under the principles of a de novo proceeding, the Property Tax Appeal Board shall not presume the action of the board of review or the assessment of any local assessing officer to be correct. However, any contesting party shall have the burden of going forward." (86 Ill. Adm. Code § 1910.63(a)). Considering the market value evidence presented by the parties in this appeal, the Board finds a reduction in the subject's assessment is warranted.

APPELLANT:	**Petroleum Fuel & Terminal Co.**
DOCKET NUMBER:	**22-03148.001-I-1**
DATE DECIDED:	**April 2024**
COUNTY:	**St. Clair**
RESULT:	**Reduction**

The subject property consists of an industrial property located in East St. Louis Township, St. Clair County.

The appellant submitted evidence before the Property Tax Appeal Board claiming the market value of the subject property is not accurately reflected in its assessment. In support of the overvaluation argument, the appellant submitted an appraisal of the subject property estimating a fair market value of $860,000 as of January 1, 2020. The appraiser developed the cost approach and the sales comparison approaches to value in arriving at the final opinion of value.

The appellant also submitted a copy of the final decision issued by the St. Clair County Board of Review disclosing the subject's final equalized assessment of $372,067. The subject's assessment reflects an estimated market value of $1,116,313 when applying the statutory level of assessment of 33.33%. Based on this evidence, the appellant requested the subject's assessment be reduced to reflect the appraised value.

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 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 in this appeal submitted an appraisal in support of the contention that the subject parcel was not accurately assessed. 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 appraisal submitted by the appellant estimated the subject property had a market value of $860,000 as of January 1, 2020. The Boards finds the appellant submitted the best and only evidence of the subject's fair market value contained in this record. The subject property's assessment reflects an estimated market value of $1,116,313. The subject's

assessment reflects a market value greater than the appraised value presented by the appellant. Therefore, the Board finds a reduction in the subject's assessment is warranted commensurate with the appellant's request.

APPELLANT:	**Mark Pogalz**
DOCKET NUMBER:	**21-28254.001-I-1**
DATE DECIDED:	**February 2024**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of a two-story, masonry, four-unit industrial building. The subject has two units on the first floor and two units on the second floor. The property is located in Palatine Township, Cook County. The subject is classified as a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation and assessment inequity as the bases of the appeal. In support of these arguments the appellant submitted information on four suggested equity comparables with sales data on each one of those properties. Those properties can be characterized as brick, steel, or frame industrial/commercial properties located in Palatine that range: in size from 2,725 to 3,072 square feet of building area; in improvement assessment from $.83 to $5.37 per square foot of building area; in sale date from February, 2019 to April, 2020; and in sale price from $27.67 to $106.06 per square foot of building area.

In support of his arguments, the appellant submitted a letter arguing that the subject was severely damaged by a fire that lowered its marketability. The appellant submitted a damage report from December 12, 2018 showing that there was a fire in one of the first-floor units. The appellant also submitted a letter by American Technologies, Inc. estimating the cost to repair at $88,837.71.

The appellant also submitted a Vacancy/Occupancy affidavit, which shows that one month after the fire, one of the units was vacant on January 1, 2019. That affidavit also shows that five months after the fire in May 2019, another unit became vacant. Finally, the affidavit shows that a third unit became vacant in October, 2019, or 11 months after the fire. The appellant submitted no other evidence that the tenants moved out as a result of the fire or any evidence of the value of the building prior to the fire.

The appellant's letter further argues that the subject should be classified as a 5-93 instead of as a 5-92 because the first-floor portion is used as a shop/warehouse and the second-floor offices are less desirable. No other evidence was submitted for this argument. Next, appellant's brief argued that the board of review's land and building square footage is incorrect. The appellant argues that the land square footage is 5,459 and the building square footage is 2,951. In support of this argument, the appellant submitted a plat of survey.

Next, the appellant's letter argues that the land value of the subject should be reduced because of village zoning ordinance set-off requirements would not allow for a building to be built on the subject land if the property were vacant. The appellant submitted portions of the zoning ordinance to support his propositions. The appellant submitted no evidence showing the subject, as it currently stands, is not allowed to continue to operate.

The appellant's letter also argues that the board of review used an incorrect rent factor of $15 per square foot of building area. The appellant argues that the office space may be appraised at that price, but industrial workshop space should be appraised at $4.61 per square foot. Appellant argues that the first floor is used as an industrial workshop, and only the second floor is office space. In support of this proposition, the appellant submitted printouts from Colliers International which listed market indicators for the Northwest Suburbs.

Next, the appellant's letter argues that the board of review used an incorrect expense ratio of 20%. The appellant argues that the board of review submitted no evidence to justify this figure. In addition, he argues that the actual expenses are around $15,513, excluding expenses such as property taxes, debt service, depreciation, etc. In support of this proposition, the appellant submitted an income and expense statement for the subject.

The appellant also argued that the board of review and the assessor's office used incorrect vacancy rates of 10% and 15%, respectively. The appellant argues that the actual vacancy rate of 75% should have been used when valuing the property. In support of this proposition, the appellant submitted a rent roll statement showing the actual vacancy of the subject.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $42,224. The subject has an improvement assessment of $22,386 or $7.59 per square foot of building area. The subject's assessment reflects a market value of $168,896 or $57.23 per square foot of building area, including land, when applying the level of assessment for class 5 property of 25% as determined by the Cook County Real Estate Classification Ordinance. The board of review did not submit any other evidence.

In written rebuttal, the appellant argued that the board of review failed to present any substantive evidence to support the subject's current assessment.

At hearing, the appellant and the board of review agreed on the record that the decision in this 2021 appeal be decided on the evidence submitted.

Conclusion of Law

As to the subject's size, the Board finds the board of review did not submit any evidence as to the size of the subject's land and improvements and that the only evidence in the record was submitted by the appellant. Therefore, the Board finds the subject contains 2,951 square feet of building area situated on 5,459 square feet of land. However, the Board gives no weight to the appellant's argument that the subject should be reclassified as no evidence was submitted as to these classifications and how their differences affect the subject's assessment or market value.

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 that the appellant submitted no evidence or expert testimony regarding the subject's marketability, buildability, or desirability. The appellant is not an expert in the field of construction, zoning, or property valuation.

As to the land, the Board also gives appellant's land value argument no weight as the subject is improved with a two-story building. The assessment is based on the current condition of the subject and not a future hypothetical misfortune. The Board also finds that the appellant failed to present any expert testimony as to value of the land or building, or as to what is the highest and best use of the subject. The comparables have land assessment from $0.35 to $3.75 per square foot. In comparison, the subject has a land assessment of $3.63 per square foot, which is within the range of the comparables.

The Board finds the best evidence of market value to be appellant's comparable sales #1, #2, #3, and #4. These comparables sold for prices ranging from $27.67 to $106.06 per square foot of building area, including land. The subject's assessment reflects a market value of $57.23 per square foot of building area, including land, which is within the range established by the best comparable sales in this record. The Board finds the appellant failed to submit sufficient evidence as to how the fire affected the market value of the subject. The appellant did submit an estimate of costs to repair but did not submit any evidence of the subject's market value prior to the fire to establish the subject's market value. The appellant's evidence shows that only one unit became vacant directly after the fire and the subject was never completely vacant during the assessment year.

In addition, the Board gives no weight to the appellant's argument that the board of review's rent, vacancy rate, and expense ratio calculations are incorrect. There is no evidence of what the board of review took into consideration in valuing the subject and an appraisal was not submitted nor is the appellant an expert in property valuation. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

The taxpayer also contends assessment inequity as an alternate 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of assessment equity to be all of the appellant's comparables. These comparables had improvement assessments that ranged from $.83 to $5.37 per square foot of building area. The subject's improvement assessment of $7.59 per square foot of building area falls above the range of best comparables in the record. Based on this record, the Board finds the appellant did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is justified.

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[Items Contained in Italics Indicate Arguments or Evidence in Opposition to the Appellant's claim]

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