



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

APPELLANT: Glen & Gloria Mazade  
DOCKET NO.: 10-03099.001-R-1  
PARCEL NO.: 09-18-405-023

The parties of record before the Property Tax Appeal Board are Glen & Gloria Mazade, the appellants, by attorney Kenneth T. Kubiesa of the Kubiesa Law Firm, P.C., in Elmhurst; and the DuPage County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 83,800  
**IMPR:** \$ 159,550  
**TOTAL:** \$ 243,350

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject property is improved with a one-story single family brick and frame dwelling that contains 3,274 square feet of living area<sup>1</sup>. The dwelling was constructed in 1986. Features of

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<sup>1</sup> The appellants' timely submitted evidence that indicates the subject dwelling has 3,304 square feet of living area. However, the appellants did not submit any corroborating evidence or testimony in support of this dwelling size. The board of review submitted the subject's property record with a schematic drawing of the dwelling depicting a size of 3,274 square feet of living area. Based on the timely evidence submitted, the Board finds the board of review submitted the best evidence of the subject's dwelling size.

the home included a finished basement, central air conditioning, a fireplace, and 709 square foot attached integral garage. The subject has a 23,650 square foot site, of which 7,650 square feet is utilized for a storm water detention easement. The property is located in Downers Grove Township, DuPage County.

The appellants appeared before the Property Tax Appeal Board with legal counsel challenging the assessment of the subject property for the 2010 tax year. According to the original appeal petition and evidence timely filed in April 2011, the appellants claim overvaluation as the basis of the appeal. The appellants initially submitted one page of an appraisal report that contained three suggested comparable sales with a final value conclusion of \$520,000 as of May 13, 2010. Neither the name nor the professional credentials of the person(s) who prepared the report was disclosed. The appellants counsel requested an extension of time to submit additional evidence, being an appraisal, additional information concerning comparable sales.

By letters dated November 18 and December 07, 2011, the Board granted the appellants two extensions to file additional evidence by February 18, 2012 and March 6, 2012, respectively. The appellants submitted no additional evidence within these time frames. However, on September 6, 2012, the Property Tax Appeal Board received an appraisal of the subject property submitted by appellants' counsel. (Exhibit "A"). The appraisal was submitted via Federal Express priority overnight shipping. The transmittal letter on the appraisal was dated July 1, 2011. The summary retrospective appraisal conveyed an estimated market value for the subject property of \$530,000 as of January 1, 2010. The appraisal was prepared by Kenneth F. Polach, who was present at the hearing. In the letter accompanying the appraisal, appellants' counsel requested this evidence be filed INSTANTER and that it be considered by the Hearing Officer at the hearing of this matter.

At the commencement of the hearing, the Board's Administrative Law Judge posed some questions to appellants' counsel. Counsel indicted the subject residence was owner occupied and agreed that the final extension to submit evidence was March 6, 2012. Counsel was presented with the Federal Express envelope in which the appraisal was submitted depicting a hand written sending date of September 5, 2012 that was received by the Property Tax Appeal Board on September 6, 2012. Counsel made a motion to accept the late filing since it was well before this hearing. The DuPage County Board of Review objected. The Board's Administrative Law Judge took the motion and objection under advisement and allowed the appellants' appraiser to testify in connection with the appraisal report.

The Board's Administrative Law Judge next posed questions to the DuPage County Board of Review and its witness, Chief Deputy Assessor for Downers Grove Township, Joni Gaddis. Gaddis testified the quadrennial general assessment period for the

subject property was from 2007 through 2010. The Administrative Law Judge referenced the Board's 2007 decision pertaining to the subject property under Docket Number 07-04374.001-R-1. In that appeal, the Board rendered a decision reducing the subject's assessment to \$243,910 based on the weight and equity of the evidence after an evidentiary hearing. That decision, which was timely submitted by the board of review, was dated September 24, 2010. Charles Van Slyke, Member of the DuPage County Board of Review, testified that to the best of his knowledge there have been no changes to the subject property since the 2007 appeal and the Board's 2007 decision was not reversed or modified upon review

Next, the appellants' appraiser provided testimony in connection to the appraisal process and final value conclusion of \$530,000 as of January 1, 2010. The appraiser was cross-examined by board of review member Van Slyke regarding the appraisal methodology and final value conclusion.

The one page of the appraisal originally submitted by the appellant and received by the Board on April 21, 2011 contained three suggested comparables sales. The comparables had varying degrees of similarity when compared to the subject in location, land area, design, dwelling size, age and features. The comparables sold from June 2009 to April 2010 for prices ranging from \$487,000 to \$630,000 or from \$137.64 to \$211.41 per square foot of living area including land. The appraisal depicted adjustments to the comparables for differences when compared to the subject. Based on these adjusted sale prices, the appraiser concluded the subject property had an estimated market value of \$520,000 as of May 13, 2010. The appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion.

During the hearing, the board of review objected to the one page of the appraisal because it was not a complete report and may have been used for refinance purposes. In response, counsel reiterated appellants' did not intend to utilize this documentation as part of the appeal, but rather rely on the appraisal that was prepared by Polach.

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

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$243,350 was disclosed. The subject's assessment reflects an estimated market value of \$732,100 or \$223.61 per square foot of living area including land when applying the 2013 three-year average median level of assessment for Lake County of 33.24%.

Charles Van Slyke, member of the board of review, argued the hearing of this appeal should not be taking place in light of the stipulation between the taxpayers and the assessor, which was ultimately implemented by the board of review. A copy of the

signed agreement as well as a document labeled "WIHTDRAW OF STIPULATION AND WAIVER that was signed by appellants' counsel was timely submitted.

In support of the subject's assessment, the board of review submitted a grid analysis of the six comparable sales contained within the appraisal documents submitted by the appellants<sup>2</sup> and five additional comparable sales, one of which was contained in the one page partial appraiser report submitted by the appellants. The evidence was prepared by Joni Gaddis, Chief Deputy Assessor for Downer Grove Township. Gaddis was called as witness to provide testimony in connection with the evidence she prepared.

Gaddis first provided testimony critiquing the four comparable sales indentified in appraisal prepared by Polach. Gaddis noted their dissimilarity to the subject in location, age and design. She testified the subject is receiving a retention/detention allowance for 9,000 square feet of land area at the rear of the property, which was adjusted by 50%. Gaddis testified that none of the comparables receive any such allowance.

The five additional comparables submitted on behalf of the board of review had varying degrees of similarity when compared to the subject in location, land area, design, age, size and features. Comparables #1 though #4 sold from April 2008 to October 2009 for prices ranging from \$452,000 to \$700,000 or from \$173.79 to \$322.86 per square foot of living area including land. Comparable #5 was vacant land and sold in June 2008 for \$260,000 or \$19.70 per square foot of land area.

Gaddis testified comparable sales #1 and #2 were the only ranch style dwellings in the subject's area. However these properties are older than the subject, but had additions and renovations in 1993 and 2000. Comparable #3 was similar in age to the subject, but was a part one-story and part two-story style dwelling. Comparable #4 was a "tear down" and sold for \$25.11 per square foot of land area.

Under cross-examination, Gaddis did not know how many bedrooms the comparables contain. She agreed comparable #1 has a larger lot than the subject. Gaddis testified she was not aware if any of the comparables are affected by storm water detention easements. She agreed comparable #2 is slightly superior to the subject. Gaddis was not aware that comparable #2 may have been designed by a student of Frank Lloyd Wright and has custom woodwork, a gourmet kitchen, outdoor access and a master suite. Gaddis agreed that if this information could be verified, comparable #2 would be considered superior to the subject. Gaddis was also questioned pertaining to land sales #4 and #5.

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<sup>2</sup> There was one common comparable located at 3841 School Street, Downers Grove in both appraisal documents submitted by the appellants.

Under rebuttal, appellants recalled appraiser Polach, who prepared rebuttal evidence on behalf of the appellants. (Exhibit "B"). The rebuttal evidence and testimony critiqued the comparable sales utilized by the township assessor. In addition, Polach reiterated his opinion that the subject's market value is diminished due to the presence of the storm water detention area. However, Polach acknowledged the subject's land assessment reflects and estimated market value of \$251,400 or \$10.50 per square foot of gross land area and \$15.42 per square foot of net land area, which appears reasonable.

The parties were allowed, after a request by the appellants' counsel, to submitted post hearing legal briefs pertaining to the applicability of Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the motion to submit evidence after the deadline and withdraw of the stipulation. These briefs were timely received and considered by the Property Tax Appeal Board.

#### Conclusion of Law

The Board hereby sustains the objection raised by the board of review's regarding the appellants' motion to accept the late filing of the Polach appraisal since it was submitted well before the hearing date. The Board finds the Polach appraisal was not timely submitted, is inadmissible, and is hereby stricken from the record for consideration.<sup>3</sup>

Section 1910.30(g) of the rules of the Board provide:

If the contesting party is unable to submit written or documentary evidence with the petition, the contesting party must submit a written request for an extension of time with the petition. Upon receipt of this request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include, but is not limited to, the inability to submit evidence for a cause beyond the control of the contesting party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the petition is filed. Evidence sent by mail shall be considered as filed on the date postmarked or in accordance with Section 1910.25(b). (86 Ill.Admin.Code §1910.30(g)).

Section 1910.50(a) of the rules of the Board provide in pertinent part:

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<sup>3</sup> The Polach appraisal has been preserved in the Board's file for purposes of Administrative Review.

All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review **or to any submissions not timely filed or not specifically made a part of the record.** (Emphasis Added). . . . A party participating in the hearing before the Property Tax Appeal Board is entitled to introduce evidence that is otherwise proper and **admissible** without regard to whether that evidence has previously been introduced at a hearing before the board of review of the county. Each appeal shall be limited to the grounds listed in the petition filed with the Board. (Section 16-180 of the Code). (86 Ill.Admin.Code §1910.50(a)).

Finally, Section 1910.67(k)(1) of the rules of the Board provides:

In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless:

- 1) Such evidence has been submitted to the Property Tax Appeal Board prior to the hearing pursuant to this Part; (86 Ill.Admin.Code §1910.67(k)(1)).

In this matter, the Board granted two extensions to the taxpayers to file additional evidence with a last due date of March 6, 2012. However, for some unknown reason, the appellants submitted the appraisal prepared by Polach, which was transmitted to the appellants on July 1, 2011, on September 6, 2012, six months past the extended due date. Based on these rules, the Board finds the Polach appraisal was not timely filed and will not be considered.

The Board finds by allowing a party to an appeal to untimely submit evidence during any phase of the appeal process would undermine the Board's rules and the overall appeal procedures as provided by statute and rule.

More importantly, the Board finds that Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) is controlling in this matter. The Board finds the subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board for the 2007 tax year under Docket Number 07-04374.001-R-1. In that appeal, the Board rendered a decision reducing the subject's assessment to \$243,910 based on the weight and equity of the evidence after an evidentiary hearing. The Board finds the statutory language contained Section 16-185 of the Property Tax Code is not ambiguous and provides in relevant 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. (35 ILCS 200/16-185)

Similarly, section 1910.50(i) of the rules of the Board provides:

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 of the Code, 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. (Section 16-185 of the Code). (86 Ill.Admin.Code §1910.50(i)).

Based on the controlling statute and rule, the Board finds that its 2007 tax year's decision shall be carried forward to the subsequent assessment year(s) of the general assessment period subject only to any equalization factor applied to those years' assessments. The Board finds this record contains no evidence indicating the subject property sold in an arm's-length transaction subsequent to its 2007 decision or that the decision was reversed or modified upon review. In addition, the Board finds the record shows the assessment year in question is within the same general assessment period as the Board's 2007 decision. The Board takes notice that the record shows equalization factors were issued for Downers Grove Township, DuPage County of 1.059 for the 2008 tax year, 1.00 for the 2009 tax year and .9421 for the 2010 tax year. The Board further finds the subject's assessment as established by the DuPage County Board of Review of \$243,350 is in compliance with the controlling statute and rule. ( $\$243,910 \times 1.059 \times 1.00 \times .9421 = \$243,345$  or  $\$243,350$ , rounded). As a result, the Property Tax Appeal Board finds that no reduction in the subject's assessment is warranted.

Based on the above finding, the Board finds it need not address the remaining valuation evidence, the stipulation between the taxpayers and the assessor, or the withdraw of stipulation by the taxpayers.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

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Chairman



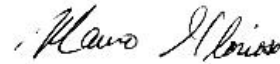
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DISSENTING: \_\_\_\_\_

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: March 18, 2016



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Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

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



"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year 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."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.