



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

APPELLANT: Sam Digirolamo
DOCKET NO.: 12-03779.001-R-1
PARCEL NO.: 03-27-404-026

The parties of record before the Property Tax Appeal Board are Sam Digirolamo, the appellant, by attorneys Ryan Schaeffges and Richard J. Caldarazzo of Mar Cal Law, P.C., in Chicago; 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: \$ 17,620
IMPR.: \$ 89,940
TOTAL: \$ 107,560

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant 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 2012 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 consists of a two-story single family dwelling of brick construction that has 4,487 square feet of living area. The dwelling was built in 2009. Features of the home include an unfinished basement, central air conditioning,

one fireplace and an attached garage with 701 square feet of building area. The subject property has a 10,912 square foot site and is located in Addison Township, DuPage County.

The appellant was contesting the assessment of the subject property for the 2012 tax year. The appeal was based on a "contention of law" that the subject dwelling's size as determined by the Addison Township Assessor and upheld by the DuPage County Board of Review was incorrect. The appellant contends in the brief that the subject dwelling has 3,786 square feet of living area, not 4,487 square feet of living area as calculated by the assessor. The appellant claimed in the brief that the second story area above the garage is unfinished and should not be included in the total amount of living area. In support of this argument, the appellant submitted a copy of a Plat of Survey, a copy of the blueprint of the subject dwelling and copies of interior photographs of the second floor area above the garage. The blueprint indicates the area above the garage is unfinished. No witnesses were called on behalf of the appellant to testify at the hearing. Based on this evidence the appellant requested the subject's improvement assessment be reduced to \$75,871.

Mr. Schaeffges stated he had not been inside the subject dwelling. Mr. Schaeffges further stated he did not take the photographs associated with the subject dwelling and that the photographs were taken by the homeowner, who was not present at the hearing. Mr. Schaeffges did not know when the photographs were taken or if the photographs accurately depict the subject property as of January 1, 2012. Mr. Schaeffges did not know whether the dwelling was constructed as per the survey or blue prints.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the final assessment of the subject property totaling \$107,560. Appearing before the Property Tax Appeal Board on behalf of the board of review were Anthony Bonavolonta, Chairman of the Board of Review, and Dawn Aderholt, Deputy Assessor of Addison Township.

In support of the assessment the board of review submitted a copy of the subject's property record card depicting the dwelling as having 4,487 square feet of living area, which included 631 square feet of living area above the garage. The board of review also submitted copies of photographs of the exterior of the subject dwelling that were printed on August 8, 2013. In addition, the board of review submitted a copy of a

certified letter dated July 22, 2013, from Dawn Aderholt, residential division manager from the Addison Township Assessor's Office, to Lisa Marino of Marino & Associates, PC, requesting an interior inspection of the dwelling. The board of review asserted there was no response to the letter.

At the hearing Mr. Bonavolonta asserted that the homeowner refused to allow access to the dwelling for inspection purposes after written request by the assessor's office and asked that the appeal be dismissed.

Aderholt testified she is familiar with the subject dwelling. Aderholt measured the subject dwelling home as it was being constructed. Aderholt testified the size of the dwelling as depicted on the property record card is 4,487 square feet of living area, which includes the finished area above the garage. She testified that she did not gain access to the interior of the home. It was her opinion the interior above the garage was finished based on her inspection, pictures and window treatments. Aderholt testified the photographs of the dwelling submitted on behalf of the board of review were taken sometime in the summer of 2013.

Conclusion of Law

The appellant contends the physical description as to the size of the subject dwelling was incorrect and a reduction in the subject's assessment was warranted based on a "contention of law". The standard of proof is a preponderance of the evidence. (5 ILCS 100/10-15). As an initial matter, the Board finds the appellant did not cite any statutory or legal authority to support the purported "contention of law" that would demonstrate the subject's actual assessed valuation was incorrect regardless of its dwelling size.

Section 1910.63 of the rules of the Property Tax Appeal Board addresses the burden of proof; which provides in part as follows:

- a) 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.

- b) Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. Failure to do so will result in the dismissal of the appeal.
- c) Once a contesting party has provided evidence or argument sufficient to challenge the correctness of the assessment of the subject property, the board of review shall be required to go forward with the appeal. The board of review must provide substantive, documentary evidence or legal argument sufficient to support its assessment of the subject property or some other, alternate valuation. Failure to do so will result in a decision by the Property Tax Appeal Board based upon the information submitted by the contesting party and, if applicable, the evidence submitted by any intervening party. . . . (86 Ill.Admin.Code §1910.63).

As the contesting party, the appellant has the burden of first producing sufficient evidence or argument to challenge the correctness of the assessment. Although the appellant submitted some documentation to challenge the assessment when initially filing the appeal, at the hearing there was no testimony to provide foundation for the documents. The appellant called no witnesses to provide any testimony with respect to the disputed finish of the area above the garage as of the assessment date. The record contained copies of photographs purportedly of the area above the garage, but there was no testimony with respect to who took the photographs, when the photographs were taken and whether or not the photographs fairly and accurately depicted the condition of this area as of January 1, 2012. Likewise, the record contained a copy of the Plat of Survey and a copy of the subject's blueprints; however, there was no testimony as to whether these documents truly reflected the nature and finish of the subject dwelling as of the assessment date. The Board finds the appellant did not present any witness that had knowledge of the subject dwelling as of January 1, 2012, to make a prima facie case to prevail and shift the burden of proof to the board of review.

Notwithstanding the appellant's failure to shift the burden of proof, the board of review did present the testimony of Dawn Aderholt who had physically viewed the exterior of the subject

dwelling and measured the home. Her testimony was not contradicted by any testimony from the appellant.

During the course of the hearing Chairman Bonavolanta argued the appeal should be dismissed due to the fact the appellant did not respond to the request made by the Addison Township Assessor's Office to inspect the subject dwelling. This argument appears to be founded on section 1910.94(a) of the rules of the Property Tax Appeal Board that provides:

- a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes. (86 Ill.Admin.Code §1910.94(a)).

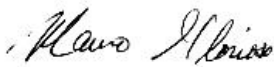
The Board finds this section is not applicable in this appeal for two reasons. First, the request to inspect the dwelling was made by the township assessor and not the board of review as required by rule. Second, the failure of the taxpayer or owner of the property to allow an inspection only prevents the taxpayer or owner from offering evidence to discredit the board of review description of the physical characteristics of subject property, the rule does not provide for dismissal of the appeal. Based on this evidence and testimony presented in this appeal, the Board finds a reduction in the subject's assessment is not justified.

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.

Chairman



Member



Member

Member



Member

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: May 22, 2015



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.