



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

APPELLANT: William & Maria Butts  
DOCKET NO.: 12-04287.001-C-1  
PARCEL NO.: 22-100-101-00

The parties of record before the Property Tax Appeal Board are William & Maria Butts, the appellants, and the Jo Daviess 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 **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$5,545  
**IMPR:** \$121,320  
**TOTAL:** \$126,865

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the Jo Daviess 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 three-story building of brick exterior construction with 4,320 square feet of building area. The building was constructed in 1848. The building has a first floor bookstore with retail space on the second floor and a third floor loft apartment which has access to the street level.

The property has a 1,932 square foot site and is located on Main Street in Galena, West Galena Township, Jo Daviess County.

The appellants contend assessment inequity as the basis of the appeal. No dispute was raised concerning the subject's land assessment. In support of the improvement inequity argument, the appellants submitted information on five equity comparables located on the same street as the subject and within four blocks of the subject. The appellants reported that these comparables were similar to the subject with retail on the first floor and apartments or office/storage in the upper floors. The comparable brick buildings range in story height from 3 to 4 stories and range in building size from 4,275 to 6,640 square feet of building area. These comparables have improvement assessments ranging from \$84,783 to \$110,373 or from \$16.62 to \$22.12 per square foot of building area.

The appellants also submitted a document setting forth the assessor's condition impressions of the subject property based upon an inspection on March 20. The assessor found the first floor to be in overall good condition; the second floor was in overall average/good condition with some maintenance issues around interior windows and a recurring ceiling crack; and the third floor storage area was in below average condition with "walls falling apart", tuck pointing issues and ceiling water damage. The assessor also described some needed tuck pointing around windows on the front exterior which was characterized as average condition or low good condition. The assessor also described the rear exterior of the subject as in need of some major repairs and tuck pointing with a low average or poor condition with low quality/cheap grade aluminum single pane windows on the second and third floors.

Based on this evidence, the appellants requested a reduced improvement assessment of \$105,000 or \$24.31 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$126,865. The subject property has an improvement assessment of \$121,320 or \$28.08 per square foot of building area.

In response to the appellant's comparables, the board of review submitted a memorandum contending that the comparables presented by the appellants were each in average, below average or in below average to poor condition as compared to the subject property which the board of review characterized as having "new

ceiling and flooring and modern lighting in addition to custom built stairway." The comparable properties have original flooring, ceilings and/or older lighting which would require remodeling to bring the properties up to the standards of the subject. The board of review also asserted that appellants' comparable #4 was a four story building that is dissimilar to the subject; to further support the difference, the board of review submitted Exhibit B, a grid analysis of four sales of one, four-story, two, two-story and a one-story building located on Main Street to depict the variations in sales prices where the four-story building reflected the lowest price per square foot. As to the condition of appellants' comparable #5, the board of review submitted Exhibit C reflecting the assessor's inspection report for this comparable as of May 2013 along with photographs. The inspector found original flooring and ceiling throughout the building, a need to replace windows and the roof among other observations.

In its memorandum, the board of review asserted that a large percentage of the buildings on Main Street are in need of major repairs or upgrading with most buildings having original wood floors, walls and ceilings and where the lighting has not been upgraded. Since an assessment is to reflect 33.33% of fair cash value of a property, the board of review asserted that properties in average or below average condition should not be assessed the same as a property that has been remodeled and is in good condition.

In support of its contention of the correct assessment the board of review submitted Exhibit D, a two-page grid analysis, with information on six equity comparables located on Main Street. The comparables consists of three-story brick buildings, one of which has a two-story addition. The comparables range in size from 2,400 to 6,000 square feet of building area. These comparables have improvement assessments ranging from \$73,471 to \$168,635 or from \$25.51 to \$44.98 per square foot of building area.

The board of review also reported that the subject property was listing for sale with a Realtor for \$479,000 (Exhibit E). The listing depicted the subject building as having been restored in 1994 featuring an oak staircase, hard-wired sound system, brass wall hanging system and full alarm system. The subject's total assessment reflects an estimated market value of approximately \$380,595.

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

**Conclusion of Law**

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

The parties presented a total of eleven equity comparables located on Main Street in Galena to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to board of review comparable #1 and appellants' comparables #4 and #5 as these three buildings each contain 6,000 or more square feet of building area and therefore differ substantially in size from the subject building that contains 4,320 square feet. In addition, appellants' comparable #4 is a four-story building and board of review comparable #1 has a two-story addition which makes these buildings different in design from the subject building. Similarly, the Board has given reduced weight to board of review comparable #5 which is significantly smaller in building area at 2,400 square feet when compared to the subject structure.

The Board finds the best evidence of assessment equity to be appellants' comparables #1, #2 and #3 and board of review comparables #2, #3, #4 and #6. These seven comparables had varying degrees of similarity to the subject building. Each was a three or 3.5 story brick building that ranged in size from 2,880 to 5,292 square feet of building area. These comparables had improvement assessments that ranged from \$18.83 to \$29.71 per square foot of building area. The subject's improvement assessment of \$28.08 per square foot of building area falls within the range established by the best comparables in this record and appears to be well-justified given the subject's condition.

Based on this record the Board finds the appellants 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.

Furthermore, proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The Court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The Court in Apex Motor Fuel further stated:

the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test.[citation.] Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the Supreme Court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the Court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21. There is evidence in the record that as of the filing of the board of review's evidence, the subject property was listed for sale on the market with an asking price of \$479,000 which is higher than the subject's estimated market value as reflected by its assessment.

In conclusion, 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. For the foregoing reasons, the Board finds that the appellants have not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no reduction is warranted.

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

*Klaus Albino*

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Member

*[Signature]*

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Member

*Jerry White*

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Member

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Acting 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: July 24, 2015

*[Signature]*

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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.