



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

APPELLANT: Daniel O'Donnell
DOCKET NO.: 13-00294.001-R-1
PARCEL NO.: 07-01-30-405-018-0000

The parties of record before the Property Tax Appeal Board are Daniel O'Donnell, the appellant, by attorney Michael Elliott of Elliott & Associates, P.C. in Des Plaines; and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$14,400
IMPR: \$125,460
TOTAL: \$139,860

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 and frame construction with 3,348 square feet of living area. The dwelling was constructed in 2006. Features include a full basement, central air conditioning and a three-car 673 square foot garage. The property is located in the

King's Bridge Subdivision in Plainfield, Wheatland Township, Will County.

The appellant contends both assessment inequity and overvaluation as the bases of the appeal. In support of these arguments, the appellant submitted information on four comparable sales located in the subject's subdivision in the Section V grid analysis of the appeal petition and also provided Exhibit B with information on 174 equity comparables consisting of properties located in nearby Shenandoah Subdivision (phases 1 and 2).¹

The sales comparables consist of two, two-story dwellings and two, one-story dwellings of frame construction that were built between 2006 and 2011. The homes range in size from 1,725 to 2,941 square feet of living area and feature full or partial basements, central air conditioning and a garage ranging in size from 400 to 850 square feet of building area. The comparables sold between September 2011 and April 2012 for prices ranging from \$167,500 to \$287,500 or from \$88.02 to \$103.77 per square foot of living area, including land. As to comparable sale #3, the appellant's counsel argued that this was a short sale transaction, but the property was listed with a broker and exposed on the open market for more than 200 days. As such, appellant's counsel contends that no adjustment for sale conditions was needed for this comparable. Based on this sales evidence, the appellant requested a total assessment of \$106,656 or a market value of approximately \$319,968 or \$95.57 per square foot of living area, including land.

For the equity argument, counsel for the appellant presented a brief with a four-page spreadsheet (Exhibit B) depicting converted assessment data on 174 properties in the Shenandoah Subdivision into estimated market values using the statutory level of assessment of 33.33%. Furthermore, counsel made arguments concerning the similarities of median dwelling size in the subject's subdivision and the Shenandoah Subdivision along with 2011 and 2012 median sales prices to support the appellant's uniformity argument that dwellings in both subdivisions are similar in size; counsel contends that dwellings in the subject's subdivision sell for about 18% less than dwellings in the Shenandoah Subdivision (based on 2011 and 2012 median sale prices); counsel also argues that dwellings in the subject's subdivision "are assessed about 7% higher than Shenandoah"; and despite the variance in sales prices, the

¹ Throughout the brief, the appellant's counsel misspelled the comparable subdivision as "Shenendoah."

appellant's counsel contends that assessments in the subject's subdivision are about 7% higher than in Shenandoah. In summary, appellant contends that this disparity violates the principles of uniformity.

As part of the brief, counsel asserted that the median size of a dwelling in the subject's subdivision is 3,338 square feet and the median sales price for 2011 and 2012 was \$94 per square foot. There is no indication how the median dwelling size for the subject's subdivision was calculated. In Exhibit A, which presents four sales of properties in King's Bridge Subdivision, there is a calculation of the median sale price of these four properties of \$94 per square foot of living area. Counsel for the appellant represents eleven taxpayers in King's Bridge Subdivision and it is counsel's contention that 2013 total assessments for these clients reflect estimated market values ranging from \$95 to \$132 per square foot of living area, including land, rounded. (Exhibit A) Additionally, counsel for the appellant argued that dwellings in the nearby Shenandoah Subdivision have a median dwelling size of 3,263 square feet of living area with 2013 estimated market values according to their assessments ranging from \$77 to \$125 per square foot of living area, rounded. Counsel contended that "during 2011 and 201[2]" [sic] the median sales price in Shenandoah was \$112 and \$119 per square foot of living area, rounded, respectively. (Exhibit B)

Exhibit B consisting of properties in the Shenandoah Subdivision reflects information on the parcel number, address, sale date, sale price, 2013 total assessment, story height (all two-story), estimated market value as reflected by the assessment, estimated market value per square foot based upon the assessment and living area square footage. The sales occurred between March 2003 and December 2012 for prices ranging from \$99,900 to \$601,215. The total 2013 assessments range from \$87,000 to \$145,936 which converts to estimated market values ranging from \$261,026 to \$437,852 or from \$77.14 to \$125.63 per square foot of living area, including land. The dwellings range in size from 2,533 to 4,865 square feet of living area. The spreadsheet lacks any information as to the improvement assessment of the respective properties and it lacks any data concerning the year the dwelling was built, the type of foundation, the exterior construction type and/or the features of the properties such as air conditioning, fireplaces, garages and/or additional improvements such as swimming pools or other assessable amenities. Based on this limited equity evidence involving converting assessments to market value and counsel's arguments regarding the similarities of the subject's subdivision with

Shenandoah Subdivision, the appellant requested a reduced improvement assessment for the subject property of \$92,256 or \$27.56 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal." The appellant also submitted a copy of the Notice of Final Decision issued by the Will County Board of Review disclosing the 2013 total assessment for the subject of \$139,860. The subject property has an improvement assessment of \$125,460 or \$37.47 per square foot of living area. The subject's assessment also reflects a market value of \$421,392 or \$125.86 per square foot of living area, land included, when using the 2013 three year average median level of assessment for Will County of 33.19% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a two-page memorandum from David Monaghan, Wheatland Township Assessor, along with additional grids, property record cards and a map. As to the equity comparables in appellant's Exhibit B from Shenandoah Subdivision, the assessor asserted those comparables are "not pertinent to this case" because the two subdivisions have different school districts with differing tax rates. The assessor contends that when the appellant(s) from King's Bridge Subdivision spoke with the assessor's office, their concern was high tax bills as compared to neighboring Shenandoah. The assessor explained the differing tax rates for the respective school districts. Also as part of the discussion with the assessor, the respective taxpayers agreed to the assessor's recommended reductions in their respective assessments and at the time, the taxpayers indicated that no appeal was pending with the Will County Board of Review and the taxpayer(s) had not retained counsel.

Also as part of the memorandum, the township assessor noted differences in dwelling size and/or story height between the subject and several of the appellant's comparable sales.

In support of its contention of the correct assessment the board of review through the township assessor submitted two grid analyses of suggested comparable properties.

One grid consists of two comparables located in King's Bridge Subdivision with information on both sales and equity for these properties. The comparable dwellings are two-story frame homes that were built in 2012 and 2013. The homes contain 2,546 and 3,305 square feet of living area, respectively, and feature full

basements, central air conditioning and three-car garages of 683 and 964 square feet of building area. The properties sold in December 2012 and May 2013 for prices of \$417,700 and \$490,744 or for \$148.49 and \$164.06 per square foot of living area, including land. These properties have improvement assessments of \$68,470 and \$130,860 or \$26.89 and \$39.59 per square foot of living area.

The second grid consists of three comparable sales located in Shenandoah Subdivision. The comparable dwellings are two-story frame homes that were built in 2004 or 2013. The homes range in size from 3,343 to 3,446 square feet of living area and feature full basements, central air conditioning and three-car garages ranging in size from 653 to 727 square feet of building area. The properties sold between May and October 2013 for prices ranging from \$400,500 to \$484,062 or from \$118.73 to \$140.47 per square foot of living area, including land.

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

In written rebuttal, the appellant's counsel argued that the board of review did not include documentation that the comparable sales presented were listed in the open market or were arm's length transactions. As to the sales in the subject's subdivision, the appellant contends that each of the dwellings was a custom built home, not advertised on the open market and do not reflect arm's length sales transactions.

As to the equity argument, the appellant argued that the inequity claim was not concerning properties in King's Bridge Subdivision, but rather "the inequity exists when one compares the assessments of homes from King's Bridge to the assessments of comparable homes in Shenandoah development across the street."

The appellant also requested that various hearsay statements and assertions regarding the negotiations of the assessment at the township assessor level be disregarded as the appellant timely pursued an appeal with the county and the Property Tax Appeal Board on the assertion that the assessment was excessive. Moreover, the appellant argued that the differences in school districts and/or tax rates for those respective school districts are not relevant to the issue of assessment uniformity.

Conclusion of Law

The taxpayer contends assessment inequity as a 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.

When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. 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 1, at 21 (1989).

The Board finds from appellant's Exhibit B there are 18 sales of properties that occurred between April 2011 and December 2012, which are the most proximate sales to the valuation date of January 1, 2013. These 18 sales were for prices ranging from \$261,000 to \$405,000 and the sold properties have total 2013 assessments ranging from \$87,000 to \$129,743 which approximately reflect 2013 estimated market values ranging from \$261,026 to \$389,268. These 18 dwellings range in size from 2,854 to 3,796 square feet of living area. The appellant provided no other descriptive characteristics of the comparable properties besides two-story design and dwelling size. In contrast, the subject dwelling is known to have a basement, central air conditioning and a three-car garage of 912 square feet of building area. Moreover, the subject property contains 3,348 square feet of living area and has an estimated 2013 market value based on its assessment of \$421,392 and a total assessment of \$139,860. The Board finds the subject's estimated market value falls above the range of the sales prices of the most recent sales in Shenandoah Subdivision and likewise has a total assessment which also falls above the range of the total assessments of recently sold properties in Shenandoah Subdivision. The Board further finds that the appellant provided no data concerning age, foundation and/or features of the comparable properties for purposes of a thorough analysis of comparability to the subject dwelling.

In order to establish the appellant's inequity claim based on sales information and assessment data, the appellant should have presented randomly chosen comparables within the subject's immediate area (i.e., King's Bridge Subdivision) to demonstrate that the subject property was being assessed at a greater percentage of market value than nearby properties. The appellant instead presented "equity" comparables that were located in the Shenandoah Subdivision and "converted" those assessments into estimated market values, instead of relying upon the recent sales. Furthermore, the Board finds that the comparables presented by the appellant were located within a different school district (i.e., a different taxing district) than the subject property.

The Board further finds that the appellant presented some recent sale data within Exhibit B, but provided no substantive evidence of the subject's estimated market value as of the assessment date such as a recent appraisal. Instead, the Board finds that the appellant examined the subject's total assessment reflecting a 2013 estimated market value of \$421,392 which was above the range of the most recent comparable sales in the purportedly comparable Shenandoah Subdivision. In summary, based on the appellant's equity data, the Board finds that subject property has an assessment that has not been shown to be out of proportion to the subject's purported actual market value and the appellant's argument regarding the assessments and recently sold comparables in Shenandoah Subdivision has failed to establish lack of assessment uniformity.

On this record, the Board finds the best evidence of assessment equity to be the board of review comparables located in King's Bridge Subdivision. These comparables have varying degrees of similarity to the subject property. These comparables had improvement assessments of \$26.89 and \$39.59 per square foot of living area. The subject's improvement assessment of \$37.47 per square foot of living area falls within the range established by the best and most detailed comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

The appellant also 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 nine comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparables #3 and #4 which are dissimilar one-story dwellings that are substantially smaller than the subject two-story dwelling of 3,348 square feet of living area. The Board also gave less weight to board of review comparables #1 through #3 located in the Shenandoah Subdivision.

The Board finds the best evidence of market value to be appellant's comparable sales #1 and #2 along with board of review comparable sales #1 and #2 in King's Bridge Subdivision. The comparable properties have varying degrees of similarity to the subject dwelling in age, size and/or features. These four most similar comparables sold between December 2011 and May 2013 for prices ranging from \$242,500 to \$490,744 or from \$91.20 to \$164.06 per square foot of living area, including land. The subject's assessment reflects a market value of \$421,392 or \$125.86 per square foot of living area, including land, which is within the range established by the best comparable sales in this record. After considering adjustments and differences in the comparable properties when compared to the subject, the Board finds a reduction in the subject's assessment is not justified on grounds of overvaluation.

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

K. L. Fan

Klaus Albrecht

Member

Member

Jerry White

Member

Acting Member

Robert Steffen

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: November 20, 2015

A. Proctor

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.