



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

APPELLANT: Thomas & Marcia Carbery  
DOCKET NO.: 13-03298.001-R-1  
PARCEL NO.: 20-07-204-005

The parties of record before the Property Tax Appeal Board are Thomas & Marcia Carbery, the appellants, by Michael J. Torchalski of the Law Office of Michael J. Torchalski, P.C in Crystal Lake, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$26,362  
**IMPR.:** \$70,508  
**TOTAL:** \$96,870

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the McHenry 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 frame and brick exterior construction with 2,729 square feet of living area.<sup>1</sup> The dwelling was constructed in 1994. Features of the home include a full finished English-style basement,<sup>2</sup> central air conditioning, a fireplace and an attached

---

<sup>1</sup> The appellants' appraiser reported a dwelling size of 2,785 square feet and provided a schematic drawing to support the conclusion. The appellants in Section III of the appeal petition and the board of review reported a dwelling size of 2,729 square feet which was supported by a copy of the property record card with a schematic drawing. The Board finds the slight size discrepancy in the record does not prevent a determination of the correct assessment of the property.

<sup>2</sup> The appellants' appraiser reported on page 1 a walkout style basement for the subject dwelling. In the remainder of the report, the basement is

three-car garage. The property has a 27,617 square foot site and is located in Cary, Algonquin Township, McHenry County.

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants submitted an appraisal estimating the subject property had a market value of \$285,000 as of January 1, 2013. The appraisal was prepared for a tax appeal and the rights appraised were fee simple. The appraiser utilized the sales comparison approach to value and analyzed six comparable properties to arrive at the value conclusion. The comparables were all located in the subject's subdivision and were from .06 to .33 of a mile from the subject. The comparables have varying degrees of similarity to the subject. The appraiser reported that three of the sales were short sales and three of the sales were "market," one of which was a relocation sale. As part of the addendum, the appraiser asserted that due to the high level of distressed sales in the market, short sales were included, but foreclosure were excluded as they were more heavily discounted. The comparables sold between February 2012 and February 2013 for prices ranging from \$268,000 to \$375,000 or from \$86.76 to \$132.84 per square foot of living area, including land.

The appraiser made adjustments to the comparables for sales or financing concessions and/or for lot size, view, condition, room count, dwelling size, basement style, basement finish, garage size, number of fireplaces and/or amenity differences. In the addendum, the appraiser also noted that comparable #4 appeared to be an outlier in the range and this property was extensively remodeled prior to sale resulting in a superior condition to the neighborhood. From this process, the appraiser opined adjusted sales prices ranging from \$273,000 to \$322,500. The subject's value was estimated to be in the middle of the adjusted range of sale prices minus the outliers of comparable sales #4 and #6.

Based on this evidence, the appellants requested a total assessment reflective of the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$96,870. The subject's assessment reflects a market value of \$290,552 or \$106.47 per square foot of living area, land included, when using the 2013 three year average median level of assessment for McHenry County of 33.34% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a grid analysis setting forth the six sales from the appellants' appraisal report. There was no further evidence addressing the appraisal report in any manner beyond the assessor's adjustments to the six comparable sales presented in the appraisal. The grid analysis reflects adjustments to lot size, location, exterior

---

described as "English." The assessing officials also reported a "partially exposed" basement.

construction, dwelling size, number of bathrooms, number of fireplaces, basement size, basement finish, garage size, basement type, age and/or other amenity differences. From this process, the assessor presented adjusted sale prices of appraisal sales #1 through #6 ranging from \$268,200 to \$374,500. Based on the adjusted sales, the assessor opined the subject had a market value of \$329,300.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on six comparable sales located in the subject's subdivision. The comparables have varying degrees of similarity to the subject dwelling. The comparables sold between October 2012 and July 2013 for prices ranging from \$367,000 to \$415,000 or from \$113.95 to \$129.96 per square foot of living area, including land. This grid analysis similarly included adjustments for lot size, location, exterior construction, dwelling size, number of bathrooms, number of fireplaces, basement size, basement finish, garage size, basement type, age and/or other amenity differences. From this process, the assessor presented adjusted sale prices ranging from \$340,900 to \$372,800.

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

In written rebuttal, counsel for the appellant initially noted that the board of review did not submit the same comparable sales as were presented before the local board of review hearing. In this regard, the Property Tax Appeal Board would point out that the law is clear that proceedings before the Property Tax Appeal Board are de novo "meaning the Board will only consider 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 . . . ." (86 Ill.Admin.Code §1910.50(a)).

It was also argued that of the appraisal comparable sales, the assessor's adjustments resulted in lower adjusted sales price for four of the appraisal sales than were presented by the appellants' appraiser.

Counsel also argued that five of the six comparables presented by the board of review sold in 2013. The appellants object to use of these sales as they occurred after the January 1 valuation date "during a rising market." To support this contention, counsel included various printouts of area real estate sales data for residential sales as of April, May and June 2013. While the assessing officials made various adjustments to the comparable sales that were presented, the officials made no adjustment for date of sale. Counsel contends that the market area data reflects that a downward adjustment should be made for the increases in market prices in 2013.

In surrebuttal, the board of review submitted a detailed memorandum from the Algonquin Township Assessor along with exhibits A through E. As to the criticism of presenting new

comparable sales before the Property Tax Appeal Board, the assessor cited Section 16-180 of the Property Tax Code that appeals are considered de novo before the Board. (35 ILCS 200/16-180 which is Exhibit A)

To address appraisal sale #4 as an outlier, the assessor created Exhibit B, a composite sales query of all sales occurring in the subject's subdivision between January 2012 and July 2013. Based on this exhibit, the assessor contends that appraisal sale #4 falls within the median sales price range of the entire subdivision population.

As to the assertions in the appellants' appraisal report in the addendum that appraisal sale #4 had extensive remodeling with no real market exposure, the assessor submitted Exhibits C and D for the proposition that the assertions in the appraisal report are untrue.

In response to counsel's criticism of presentation of sales occurring after January 1, 2013, the assessor cited case law (Exhibit E).

The assessor's memorandum further criticized the appraiser's adjustments to appraisal sale #5 for location and the appraiser's consideration of the second sale of comparable #6 rather than the first sale that occurred in August 2012.

#### Conclusion of Law

As an initial matter, the Property Tax Appeal Board finds that much of the board of review's surrebuttal submission is inappropriate and must be stricken. Pursuant to the rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)).

In light of the rule concerning rebuttal evidence, the Property Tax Appeal Board finds that much of the surrebuttal should have been presented in response to the appeal; the Board will not consider Exhibit B, C, D and the new criticisms of appraisal comparables #5 and #6 submitted by board of review in conjunction with its surrebuttal argument. The Board finds that the board of review did not choose to address these matters in the appellants' appraisal report when initially responding to the appeal and the board of review is not entitled to raise these matters in response to the appellants' rebuttal submission.

However, in response to the appellants' rebuttal, it was appropriate for the assessing officials to cite the Property Tax Code and case law concerning the de novo standard of practice before the Board and the consideration of sales that occur after

the assessment date when appealing market value to the Property Tax Appeal Board.

For this appeal, 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 Property Tax Appeal Board has given little weight to the value conclusion of the appellants' appraisal report. Based upon the subject's accepted dwelling size of 2,729 square feet of living area, the appraiser's opinion of market value of the subject property is \$104.43 per square foot of living area which the Board finds is not supported by the sales in the record. The subject dwelling is 19 years old and the two most similar comparables in age are appraisal sale #4 and board of review sale #1 which sold for \$132.84 and \$129.96 per square foot of living area, respectively. The appraiser made no adjustment to the five newer comparables for age when compared to the subject. Moreover, the Board finds that the six comparable properties sold for prices ranging from \$86.76 to \$132.84 per square foot of living area. The appellants' appraiser opined that the high sale price, comparable #4, was an outlier due to extensive renovations. The appraiser also concluded that comparable sale #6 at \$89.18 per square foot of living area, including land, which was in average condition, was also an outlier. The Board finds that the comparable sales data does not support the appraiser's final value conclusion. Having discounted the value conclusion as lacking support and credibility, the Board will examine all of the sales in the record.

The parties to the appeal presented a total of 12 comparable sales to support their respective positions before the Board. The comparables have varying degrees of similarity to the subject dwelling in exterior construction, dwelling size, basement type and/or other amenities. The Board finds the comparables sold for prices ranging from \$268,000 to \$415,000 or from \$86.76 to \$132.84 per square foot of living area, including land. The subject has an estimated market value as reflected by its assessment of \$290,552 or \$106.47 per square foot of living area, including land. The subject's estimated market value as reflected by its assessment falls at the lower end of the range on a per-square foot basis even though recent sales of comparable older dwellings sold for more. The subject's total estimated market value as reflected by its assessment is well-supported by appraisal comparable sale #4 and board of review comparable #1 which are similar in age, dwelling size, basement type and/or basement finish to the subject.

Docket No: 13-03298.001-R-1

Based on this record, the Property Tax Appeal Board finds the appellants failed to establish overvaluation by a preponderance of the evidence and therefore, a reduction in the subject's assessment is not 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.

*Mario Albino*

Chairman

*K. L. Ferr*

Member

*JR*

Member

*Jerry White*

Acting Member

*Robert Hoffmann*

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: April 22, 2016

*A. Heston*

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.