



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

APPELLANT: James & Jane O'Donnell  
DOCKET NO.: 13-03371.001-R-1  
PARCEL NO.: 20-30-400-012

The parties of record before the Property Tax Appeal Board are James & Jane O'Donnell, the appellants, by Jerri K. Bush, Attorney at Law, in Chicago,<sup>1</sup> and the McHenry County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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:** \$98,839  
**IMPR.:** \$49,852  
**TOTAL:** \$148,691

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 brick veneer construction with 2,464 square feet of living area. The dwelling was constructed in 1979. Features of the home include a full unfinished basement, central air conditioning, a fireplace and an attached 792 square foot garage. The property has a 5.01-acre site and is located in Barrington Hills, Algonquin Township, McHenry County.

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants submitted information

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<sup>1</sup> Counsel withdrew as attorney of record by a filing made on March 14, 2016.

on five comparable sales located up to 3.1-miles from the subject property. The comparables consist of two-story frame or brick dwellings. The data indicates ages for the homes ranging from 6 to 40 years old. The dwellings range in size from 2,282 to 3,600 square feet of living area. Each home has a full or partial basement, two of which have finished areas. Each comparable has central air conditioning, one or two fireplaces and a two-car or a three-car garage. The properties sold between February 2012 and December 2013 for prices ranging from \$275,000 to \$400,000 or from \$80.02 to \$153.55 per square foot of living area, including land.

Based on this evidence, the appellants requested a total assessment of \$100,656 which would reflect a market value of approximately \$301,968 or \$122.55 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$173,598. The subject's assessment reflects a market value of \$520,690 or \$211.32 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 contended that three of the sales presented by the township assessor support a higher assessment for the subject property. The board of review submitted a memorandum with Exhibits A through D prepared by the Algonquin Township Assessor's Office. As to appellants' comparable #2, the township assessor contended that the property "was not in the same condition at time of sale November 2012, as it was when the assessment was last established" citing to 35 ILCS 200/16-55. (Exhibit B - a copy of the Multiple Listing Service data sheet depicting the property needed sweat equity to be restored). As to appellants' comparable sale #4, the assessor noted the property was sold 11 months after the date of assessment of January 1, 2013 (Exhibit D).

Exhibit C was submitted as a sales analysis of homes sold in Barrington Hills School District 220 versus School District 300.<sup>2</sup> As part of a memorandum, the assessor reported that the listing data was verified for any condition problems at the time of sale and, for the properties with condition issues, the sale was

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<sup>2</sup> The 26 District 220 sales occurred between April 2010 and September 2013 for prices ranging from \$302,000 to \$7,500,000. The dwellings were noted as two-story homes built between 1917 and 2008 ranging in size from 2,336 to 20,615 square feet of living area with, all but one, having basements ranging in size from 684 to 9,794 square feet of building area. The parcels range in size from .91 to 40.2-acres of land area. The 7 District 300 sales occurred between March 2010 and September 2013 for prices ranging from \$275,000 to \$700,000. The dwellings were reported as two-story homes built between 1949 and 2001 ranging in size from 2,282 to 5,022 square feet of living area. The basements range in size from 940 to 2,501 square feet of building area and the parcels range in size from 2.14 to 6.56-acres of land area.

excluded from the study (citing 35 ILCS 200/16-55 of the Property Tax Code). Based upon this analysis, the township assessor opined that the median sale price per square foot of living area for School District 220 was 32.2% higher than for School District 300. In this regard, appellants' comparable sale #1 is located in School District 300.

Exhibit A consists of a grid analysis with various adjustments outlining the appellants' comparables #1, #3 and #5 along with four comparables presented by the township assessor. The assessor also reported that there were dwelling size discrepancies for appellants' comparables #2 and #3 from the assessor's records. The assessor reported that appellants' comparables #1, #3 and #5 have parcels ranging in size from 1.1 to 3-acres of land area; comparables #3 and #5 are in School District 220 whereas comparable #1 is in School District 300.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on four comparable sales located up to 1.14-miles from the subject property and each of which was reported to be in School District 220, like the subject. The comparable parcels range in size from 1.04 to 5-acres of land area and are improved with two-story frame or frame and brick dwellings that were 33 to 40 years old. The homes range in size from 3,026 to 3,395 square feet of living area and feature basements, with finished area, central air conditioning, one to four fireplaces and a garage ranging in size from 440 to 964 square feet of building area. One comparable also has an additional garage and tennis court. Another comparable also has a stable and an in-ground pool and a third comparable has a shed. These properties sold between May 2012 and July 2013 for prices ranging from \$450,000 to \$660,000 or from \$148.71 to \$194.40 per square foot of living area, including land.<sup>3</sup>

As part of the grid analysis, the township assessor made various adjustments to the comparables for lot size, exterior construction, bathrooms, fireplaces, basement size and finish, garage size and/or other amenity differences. From this process, the assessor opined adjusted sale prices ranging from \$397,600 to \$585,800 with an opinion of the subject's estimated market value of \$552,200.

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

In written rebuttal, counsel for the appellants argued that compulsory sales are to be considered for revising assessments if the properties have the same characteristics and condition as when the assessed values were established citing Sections 16-

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<sup>3</sup> The Property Tax Appeal Board discovered that mathematically the assessor did not correctly report the sale price divided by the above-grade living area of the dwellings. The Board has reported the corrected figures in this decision.

55(b) and 16-183 of the Property Tax Code. The appellants contend that the comparables submitted appear to meet that criteria. As to the purported condition issues regarding appellants' comparable sale #2, counsel argued reliance was placed by the assessor upon a third party's assertion of condition and there was no proof that the condition of the property had changed from when the assessment was last established. As to the criticism that appellants' comparable #4 should not be considered a valid sale since it occurred 11 months after the assessment date, counsel argued that case law does not support that assertion.

As to the sales studies (board of review Exhibit C), counsel argued that such data should be disregarded as the sales data appeared to be selective, excluding recent sales with purported condition issues. As to the four sales presented by the board of review, the appellants provided Multiple Listing Service data sheets which depict the properties have luxury amenities including a tennis court, stables and in-ground pool. Despite adjustments for these amenities, appellants contend the properties are dissimilar from the subject. The appellants also provided a side-by-side grid analysis of the appellants' comparables and the board of review comparables with various adjustments. The analysis included Property Equalization Values (adjustments) to the comparables for sale date, age, square footage, baths and fixtures, basement, finished basement and/or garage. No evidence or explanation pertaining to the calculation of the adjustment amounts was provided. Based on the Property Equalization Values, the analysis conveys a value estimate for the subject property of \$420,955 or a total assessment of \$140,304. At the bottom of the analysis, data sources were listed as Assessor, County, MLS, Realist and Marshall & Swift.

In surrebuttal, the board of review submitted a two-page memorandum prepared by the Algonquin Township Assessor along with additional documentation in support of the assessor's original evidence in this appeal. The memorandum addressed issues of building permits to properties for repairs/maintenance, the sales analysis based on school district location, lack of known condition issues regarding the subject property, additional evidence regarding comparable sale properties and an assertion that an aerial photograph reveals a wood deck for the subject property which was previously unknown to the assessing officials.

After receipt of the surrebuttal submission, the appellants' counsel, based upon existing procedural rules of practice before the Board, requested that the Property Tax Appeal Board disregard the surrebuttal filing as new evidence that was not timely filed in response to this appeal.

#### **Conclusion of Law**

As an initial matter, the Property Tax Appeal Board finds that 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 the surrebuttal should have been presented in response to the appeal; the Board will not consider the surrebuttal argument and/or evidentiary submissions. The Board finds that the board of review did not choose to address these matters in response to the appellants' comparable sales 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.

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 met this burden of proof and a reduction in the subject's assessment is 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 appellants' comparable #2 due to its newer age and larger dwelling size when compared to the subject.

The Board finds the remaining eight comparables have varying degrees of similarity to the subject property in land size, age, dwelling size and/or features. These eight comparables sold between February 2012 and December 2013 for prices ranging from \$275,000 to \$660,000 or from \$104.13 to \$194.40 per square foot of living area, including land. The subject's assessment reflects a market value of \$520,690 or \$211.32 per square foot of living area, including land, which is within the range of the best comparables in terms of overall value, but above the range on a square-foot basis which does not appear to be justified. After considering adjustments and differences in the eight best comparables, the Board finds that a reduction in the subject's assessment is 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.

*Mario Alvares*

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.