



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

APPELLANT: Paul Berezowski  
DOCKET NO.: 13-05038.001-R-1  
PARCEL NO.: 10-07-429-005

The parties of record before the Property Tax Appeal Board are Paul Berezowski, the appellant, and the McHenry County Board of Review.

Based on the facts and exhibits presented in this matter, 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:** \$10,219  
**IMPR.:** \$27,821  
**TOTAL:** \$38,040

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a 2012 Final Administrative Decision of the Property Tax Appeal Board pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) in order to challenge 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 one and one-half story frame dwelling with 1,970 square feet of living area. The dwelling was constructed in 1990. Features of the home include a crawl-space foundation and a two-car attached garage. The property has a 12,000 square foot site and is located in McHenry, McHenry Township, McHenry County.

The appellant contends that the subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 12-04045.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$41,326 based on the evidence submitted by the parties. The appellant further contends that 2012 and 2013 are in the same general assessment period in McHenry County. (See 35 ILCS 200/9-215)

Based on this evidence, the appellant requests a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$46,667. As part of the board of review's submission, it was reported that an equalization factor was applied in 2013, but failed to report what that factor was in McHenry Township on the "Board of Review – Notes on Appeal."<sup>1</sup>

In response to the appeal, the board of review raised two responses: (1) owner stipulation to \$46,667 and (2) property was vacant suggesting the property was ineligible for the "rollover" provision of the Property Tax Code. As to the 'stipulation' argument, the board of review provided no further supportive argument beyond submitting a document entitled "Assessment Stipulation & Waiver of Hearing." The document was executed by the appellant and the McHenry Township Assessor on August 27, 2013. The document does not reference any particular tax year, but does refer to the subject parcel and reflects a total assessment of \$46,667. In pertinent part, the document provides that:

The undersigned have reviewed and discussed the above referenced parcel and have agreed to the final assessment as stated herein. If the McHenry County Board of Review agrees to confirm the above assessment, all parties, including the property owner, hereby waive the right to a hearing before said Board. The undersigned parties will also waive their rights to appeal the Final Decision to the Illinois Property Tax Appeal Board. . . . [Emphasis added.]

As to the occupancy issue, the board of review submitted a memorandum entitled "Assessor's Opinion" from Mary Mahady, McHenry Township Assessor. As to the subject property, the assessor noted that county records show the "owner" was receiving a Homeowner Exemption at a property he owned across the street from the subject property in 2012 and the appellant's appraisal evidence for the 2012 appeal noted the 'occupancy' of the dwelling as "vacant" as of the date of inspection in April, 2013. As such, the assessor and board of review contend that the subject dwelling was not owner occupied in 2012 or at the start of 2013.

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

In written rebuttal, the appellant contended that since 2012, due to a divorce and court order, he moved out of the dwelling across the street and has been residing in the subject dwelling. The appellant further acknowledged that due to the lack of many furnishings, it may have appeared to be a vacant dwelling to the appraiser, but the appellant contends he has lived in this sparse manner until late 2015. In further support of this assertion, the appellant submitted a copy of the 2012 tax year Notice of Final Decision issued by the McHenry County Board of Review as to the subject parcel which was mailed to the appellant at the street address of the subject parcel.<sup>2</sup>

### **Conclusion of Law**

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<sup>1</sup> One of the documents filed in response to the appeal by the board of review included a 2013 McHenry Township equalization factor of .9205.

<sup>2</sup> If eligible, the appellant may want to apply for a homestead exemption as to the subject property.

The subject property was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 12-04045.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$41,326 based on the evidence submitted by the parties.

The appellant's appeal is based upon a contention of law with citation to a single provision of the Code. Section 10-15 of the Illinois Administrative Procedure Act (5-ILCS 100/10-15) provides:

Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63. The appellant in this appeal relied upon Section 16-185 of the Code (35 ILCS 200/16-185) which provides in pertinent part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, **shall** remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. [Emphasis added.]

The board of review first questioned whether the "Assessment Stipulation & Waiver of Hearing" executed between the appellant and the township assessor barred this appeal before the Property Tax Appeal Board. The Property Tax Appeal Board finds no merit in this argument. The provisions of the document waiving a further appeal concern an appeal from the McHenry County Board of Review final decision. In contrast in this appeal, the appellant filed based upon Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) based upon a favorable decision issued by the Property Tax Appeal Board for tax year 2012, not a final decision of the McHenry County Board of Review.

Next, the board of review questioned whether the appellant was a resident of the subject dwelling based upon (a) existence of a 2012 homeowner exemption for a different parcel and (b) an appraisal of the subject property that described the property as vacant at the time of inspection. In rebuttal, the appellant disputed those assertions factually asserting he has been a resident of the dwelling since 2012 and noted the final decision for tax year 2012 was mailed on or about March 22, 2013 to the appellant at the subject property address. Based on this record, the Board finds that the appellant has overcome the question of occupancy of the subject property.

In light of the statutory provision and the evidence in this record, the Board further finds that the prior year's decision should be carried forward to the subsequent year subject only to any

equalization factor applied to that year's assessments. This finding is pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) and the fact that 2012 and 2013 are within the same general assessment period in McHenry County. The record contains no evidence indicating that the assessment year in question is in a different general assessment period. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the Board's prior year's finding plus the application of the equalization factor of 0.9205.

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



Acting Member

DISSENTING: \_\_\_\_\_

CERTIFICATION

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: \_\_\_\_\_

February 24, 2017



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.