



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

APPELLANT: Kim H. & Diann M. Helnore
DOCKET NO.: 14-00793.001-R-1
PARCEL NO.: 05-08-352-011

The parties of record before the Property Tax Appeal Board are Kim H. & Diann M. Helnore, the appellants, by attorney Iver R. Johnson, Jr., of Iver R. Johnson & Associates Ltd., in McHenry, and the Boone County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** in the assessment of the property as established by the **Boone** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$18,880
IMPR.: \$74,568
TOTAL: \$93,448

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Boone County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 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 exterior construction. The dwelling was constructed in 1987. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and an attached three-car garage of 910 square feet of building area. The property has a 1.5-acre site and is located in Belvidere, Belvidere Township, Boone County.

The parties have an initial factual dispute concerning the size of the home. The appellants contend the dwelling contains 3,390 square feet of gross above grade living area. The appellants provided Exhibit E, a sketch of the property prepared as part of an appraisal of the home (the board of review submitted the appraisal as part of Exhibit L). The appraisal report (Exhibit L) states with regard to the "loft area above the garage," which is 18 feet by 18 feet, the area lacks heat and "will receive no contributory value." The assessing officials contend the dwelling

contains 3,771 square feet of living area, including 255 square feet of finished attic area above the attached garage. To support this contention the board of review submitted Exhibit B, a copy of the subject's property record card with a schematic drawing. For the purposes of issuing this decision, the Property Tax Appeal Board finds that it is not necessary to resolve this size dispute in order to issue a decision in this matter.

The subject property had a 2012 total assessment of \$93,448 as determined by the Boone County Board of Review. The assessment records reflect that for tax year 2013, the township assessor, appellant Diann Helnore, performed an "assessor reval" as depicted on the subject's property record card which total assessment of \$88,245 was "certified" for tax year 2013 by the Boone County Board of Review.¹ The Boone County Board of Review issued a Change of Assessment for tax year 2014 for the subject property to a total assessment of \$93,448.

The appellants appealed from the Boone County Board of Review Final Decision of \$93,448 based upon a contention of law. Counsel for the appellants submitted a four-page brief along with nine pages of supporting documentation. In summary, the appellants contend that the assessment of the subject property is erroneous and should not have been modified from the 2013 improvement assessment of the subject property; no dispute was raised concerning the subject's land assessment.² The appellants cited no statutory authority nor case law to support the contention of law.

The appellants report that on October 1, 2014, a Boone County Change of Assessment was issued for the subject property increasing the subject's improvement assessment by 7.5% from \$69,365 to \$74,568. The reason set forth for the change was "Omitted Residential, New Level." (Page 2) Upon inquiry concerning the change, the appellants were advised that 255 square feet of finished attic area as set forth in a listing and a concrete patio were both added to the assessment records of the property.

Counsel for the appellants argued in the brief that the aforesaid rationale for the change in assessment was "totally fictitious, arbitrary, and unreasonable." Furthermore, as to the listing that was referenced, counsel asserted this was an "old MLS listing" that was probably yellowed with age and is "an absolutely specious reason for the action taken and of no relevance whatsoever."

As to this purported finished attic, the brief contends this unheated, uncooled and uninhabitable space has been a part of the subject property since the home was constructed and cannot be considered living area under proper appraisal standards. As such, counsel contends this area cannot be considered as "omitted property" within the meaning of the statute. As to the concrete patio, counsel asserted this area was what remained after the 2012 removal of a pool as it was the pool apron. Moreover, as to both of these purported omitted features, counsel argued that both

¹ There is no record of the manner in which the board of review purportedly "certified" the 2013 assessment of the subject property other than the board of review's statutory duty to certify the books as finalized; there is no indication in the record that the board of review specifically considered an appeal of the subject property nor that the board of review upon its own motion reviewed the subject property.

² Despite this argument, the requested assessment reflects a total assessment of \$85,734 which is below the 2013 assessment of the subject property.

were present at the subject property at the time of a 2012 assessment appeal determination made by the board of review after removal of the in-ground pool.

In light of the foregoing, the brief argued that the rationale for increasing the subject's assessment in 2014 was outside what is statutorily permissible and "clearly a fictional excuse to raise the Assessed Valuation, the increase must logically fail and be reversed." No provisions of the Property Tax Code were cited for any of these assertions. The brief further contends summarily that the appellants were selectively targeted for an assessment increase in violation of their right to Equal Protection and Due Process with no other analysis of area valuation changes and/or whether the appellants' property was the only one that was modified.

The appellants, based on the foregoing, requested in Section 2c of the Residential Appeal petition a reduction in the subject's improvement assessment to \$66,854, which, contrary to the argument of the brief to return the assessment to the 2013 level, would actually reduce the subject's improvement assessment below the prior year improvement assessment of \$69,365.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$93,448. The subject's assessment reflects a market value of \$277,047, land included, when using the 2014 three year average median level of assessment for Boone County of 33.73% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on six comparable sales and an analysis of neighborhood values. In addition, an affidavit of Tamara Torrance, current township assessor (term of office January 1, 2014 to present), was submitted as Exhibit J. Torrance averred in pertinent part that the assessor's office "added the area over the garage and the concrete patio to the assessment record, without adding any specific value." Additionally, the assessor raised the value 6%, "returning it to the value set by the decision of the Boone County Board of Review for tax year 2012."

Exhibit C is a spreadsheet of six comparable sales located in various subdivisions. The comparable parcels range in size from 1.14 to 2.76-acres of land area that are improved with two-story frame or brick and stucco dwellings that were built between 1984 and 1993. The homes range in size from 3,027 to 3,634 square feet of living area and feature basements, one of which has finished area. Each comparable has central air conditioning, one or two fireplaces and a garage ranging in size from 360 to 990 square feet of building area with comparable #2 have both the smallest and largest garages on this single parcel. The comparables sold between July 2012 and November 2014 for prices ranging from \$277,000 to \$372,500.

Exhibit K is a spreadsheet depicting the changes in the assessments of properties in the subject's neighborhood code of "5162 – Rellswood." There are 15 properties depicted, including the subject, with reported changes in assessments from tax year 2013 to tax year 2014 ranging from less than .5% to 11% with the subject having a change of 7%.

Based upon the foregoing evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellants reiterated that this appeal is based solely upon a contention of law that the subject residence was built in 1987 and, with the exception of removal of an in-ground swimming pool, has not changed since its construction. As argued in rebuttal, the dwelling has what the assessor referred to as a "patio" consisting of, until 2014, the former pool apron and an unheated and not air conditioned area above the garage that has been present since construction of the home. The subject was given a 2012 assessment reduction by the board of review after removal of the pool, the board of review "certified" the 2013 assessed value and the 2014 assessment was increased by the board of review with reference to "omitted property." Counsel asserted, without citation to statute or case law, that the assessing officials could not modify the assessment of the subject property back to the higher 2012 valuation. "Taxpayers submit that as owner occupied property, the last Board of Review certification was to stand, subject only to any township factor, until the 2015 Quadrennial."

In response to the submission of an affidavit from Torrance by the board of review, the appellants submitted the affidavit of appellant Diann M. Helnore, the former township assessor for the period of January 1, 2010 to December 31, 2013 refuting various assertions, but not addressing the assessment history of the subject parcel.

Conclusion of Law

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 appellants' argument was that the board of review had misapplied or had applied in a non-uniform manner unspecified provisions of the Property Tax Code as it relates to the assessment of property given prior year assessment(s) of the same property. No specific provision of the Property Tax Code was cited for this proposition nor were any other citations to law or cases made to support this proposition.

Section 16-80 of the Code (35 ILCS 200/16-80) provides that:

Reduced assessment of homestead property. In any county with fewer than 3,000,000 inhabitants, if the board of review lowers the assessment of a particular parcel on which a residence occupied by the owner is situated, the 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 the taxpayer, county assessor, or other interested party can show substantial cause why the reduced assessment should not remain in effect, or unless the decision of the board is reversed or modified upon review. [Emphasis added.]

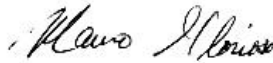
The record indicates that the subject property is owner-occupied, the assessment was reduced by the board of review for tax year 2012 and the assessment was altered/further reduced as "assessor reval" in 2013 by the township assessor, who at the time was the appellant/property owner Diann M. Helnore. There is no indication in the record that former township assessor Helnore had any authority in light of Section 16-80 to revalue her own property within her jurisdiction given the prior 2012 decision of the Boone County Board of Review. The action taken by appellant Helnore appears on this record to have been done in violation of Section 16-80 of the Code.

The subject property's 2014 assessment of \$93,448 reflects a market value of \$277,047 which not only reflects the decision of the Boone County Board of Review for tax year 2012 of this owner-occupied property, but also is well supported by the best comparable sales in the record submitted by the board of review. Comparable sales #1, #4, #5 and #6 sold for prices ranging from \$330,000 to \$372,000. The Board gave lesser consideration to sales #2 and #3 due to the dated nature of sale #3 and both the two garage and finished basement features of sale #2 which differs from the subject dwelling. The subject's estimated market value based on its assessment of \$277,047 is substantially below the best comparable sales in this record and appears to be well-supported.

Moreover, Exhibit K submitted by the board of review indicates that properties in the subject's immediate neighborhood also had increases in assessments of varying percentages from tax year 2013 to tax year 2014 which indicates that the appellants were not singled out for different treatment from other area properties.

In conclusion, after thoroughly reviewing the record, the Property Tax Appeal Board finds that the appellants did not demonstrate by a preponderance of the evidence through exhibits and/or persuasive argument that in 2014 the board of review did not properly assess the subject property. In summary the Property Tax Appeal Board finds a reduction in the subject's assessment is not justified based on this record.

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



Acting 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: _____

May 19, 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.