



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

APPELLANT: Scott Carlisle  
DOCKET NO.: 14-00956.001-R-1  
PARCEL NO.: 09-14-400-008

The parties of record before the Property Tax Appeal Board are Scott Carlisle, the appellant, by attorney Laura Godek, of Laura Moore Godek, PC in McHenry, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$152,825  
**IMPR.:** \$53,342  
**TOTAL:** \$206,167

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kane 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 one-story single-family dwelling of frame construction with 3,019 square feet of living area. The dwelling was constructed in 1966. Features of the home include a partial unfinished basement, central air conditioning, a fireplace<sup>1</sup> and a 484 square foot garage. Additional features include an in-ground pool, a 448 square foot pool house, a 618 square foot guest house and a 330 square foot workshop. The property has an 8.21-acre site and is located in Wayne, St. Charles Township, Kane County.

The appellant contends the basis of the appeal is a contention of law. In support of this argument the appellant through legal counsel submitted a brief outlining the legal issue with statutory

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<sup>1</sup> The appellant reported one fireplace. The assessing officials reported two fireplaces, but provided a property record card reflecting "Fireplace 1: Masonry w/1 Extra, 1 Story." The Board finds the best evidence of record supports the assertion that the home has one fireplace.

citations along with additional documentation including the assessments of the property for tax years 2013 and 2014 along with a chart of equalization factors in Kane County.

The appellant contends that the subject's assessment for the 2013 tax year was reduced to \$184,167 by the Kane County Board of Review. A copy of the Notice of Findings by the Kane County Board of Review was submitted depicting the 2013 tax year assessment of \$184,167 with a notation that the reason for change was "revalue per agreement between taxpayer and assessor." The Notice was dated February 13, 2014.

The appellant further asserted the dwelling is an owner occupied residential property with the property being the principal residence of the appellant, Scott Carlisle. The appellant also reported that for the 2014 tax year St. Charles Township had an equalization factor of 1.00. A copy of the equalization factors issued in Kane County was provided with the appeal. Through counsel, the appellant further asserted that tax years 2013 and 2014 are within the same general assessment period (see 35 ILCS 200/9-215).

In the brief, the appellant further stated that there had been no substantial changes to the subject property from January 1, 2013 to January 1, 2014. The brief also asserted that there has been no subsequent sale of the property and the 2013 tax year decision of the Kane County Board of Review had not been reversed or modified. The appellant also submitted a copy of the Notice of Revised Assessment issued for the 2014 tax year which increased the subject's assessment as equalized by the Supervisor of Assessments to \$232,491 with the stated reason for the change as "revalue." After an appeal by the appellant of this revised assessment notice, the Kane County Board of Review issued its Notice of Findings on January 28, 2015 determining the subject's total assessment to be \$232,491 with the stated reason for change "confirmed based on evidence submitted."

Pursuant to Section 16-80 of the Property Tax Code (35 ILCS 200/16-80) the appellant argued that the decision of the Kane County Board of Review for the 2013 tax year should have been carried forward to the 2014 tax year subject to the equalization factor of 1.00.

Based upon the foregoing legal argument that the Kane County Board of Review erred by not applying the 2014 St. Charles Township equalization factor to the subject's 2013 tax year decision issued by the Kane County Board of Review, the appellant requested a reduction in the subject's total assessment to \$184,167.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$232,491. The subject's assessment reflects a market value of \$698,381 or \$231.33 per square foot of living area, land included, when using the 2014 three year average median level of assessment for Kane County of 33.29% as determined by the Illinois Department of Revenue.

In response to the appeal and in support of its contention of the correct assessment the board of review through the St. Charles Township Assessor submitted a memorandum, a grid analysis with information on four comparable sales and copies of applicable property record cards for the subject and comparables.

In the memorandum addressed to the Kane County Board of Review and dated August 27, 2014,<sup>2</sup> the township assessor reported that the courts have held that "although the Revenue Act of 1939 contemplates a general assessment of real estate every four years, assessment officials have [the] power and duty to inspect real property within their jurisdiction annually for the purpose of making certain changes and revisions." Citing to Uretsky v. Baschen, 47 Ill.App.3d 169, 361 N.E.2d 875, 5 Ill. Dec. 552 (2<sup>nd</sup> Dist. 1977). She further wrote in the memorandum, "In a non-general assessment year, the tax code requires the valuation of all properties with physical changes; additionally, the assessor has the 'power and duty' to revalue properties where economic changes have taken place."

In order to demonstrate substantial cause and to reflect economic changes, the township assessor Colleen Lang submitted four comparable properties which sold within seven months of the assessment date at issue. She further reported that the comparables are located in Wayne in unincorporated St. Charles Township; no actual proximity information was provided. All of the properties admittedly are significantly smaller parcels of land and amenities vary with each property as stated in the memorandum. The comparable properties range in size from 4 to 4.69-acres of land area and are improved with a one-story/split and three, one-story dwellings of brick or brick and frame exterior construction that were built between 1946 and 1984. The homes range in size from 2,178 to 3,568 square feet of living area. Two of the comparables have full and partial basements, respectively, one of which has finished area. Each dwelling has central air conditioning and three of a comparables have from one to three fireplaces. Two comparables have one garage each, one comparable has two garages and one comparable has three garages. The garage buildings range in size from 504 to 1,295 square feet of building area. Two properties have barns, three properties have sheds and one property has a greenhouse. These comparables sold between June 2013 and May 2014, although the date of sale for comparable #4 has both February 2013 and March 2014. The sale prices range from \$450,000 to \$790,000 or from \$200.80 to \$269.25 per square foot of living area, including land. In the memorandum, Lang stated, "Overall the properties are a good representation of current market values in the subject neighborhood."

Lang also reported that the subject property was purchased in September 2012 for \$552,555. In the memorandum, the assessor also reported that in May 2013, the new owner obtained "a \$66,800 permit" with the inference that it related to refurbishing the in-ground swimming pool.

Based on the foregoing sales evidence and argument, the board of review requested confirmation of the subject's 2014 assessment of \$232,491.

In written rebuttal, counsel for the appellant reiterated the contention that the board of review erred by not applying the 2014 equalization factor for St. Charles Township to the tax year 2013 decision made by the Kane County Board of Review for this owner-occupied dwelling. An unsworn affidavit was submitted with the rebuttal asserting the property was the appellant's primary residence and has been since 2012. Counsel acknowledged that the subject property was purchased in October 2012 for \$552,555 and that a home inspection performed at the time of the purchase indicated there was some damaged wood on the deck (See Exhibit 2).

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<sup>2</sup> The instant appeal was filed with the Property Tax Appeal Board, as shown in the postmark, on February 12, 2015.

In 2013 the appellant replaced the old decking around the pool with colored concrete, replaced the pool interior finish and fixed drainage and grading to slope away from the home. Given the work that was performed, some pool mechanicals were also updated; a new pool cover was purchased and benches were installed. The permit consisted of landscaping work and pool maintenance according to the appellant's rebuttal argument.

Counsel argued that, despite this work, the board of review has not provided evidence that "substantial cause" exists to alter the valuation of the subject property from an improvement assessment of \$31,342 to \$81,179 or an assessment increase of more than \$49,800 or a market value increase of approximately \$149,400.

### **Conclusion of Law**

The appellant based this appeal upon a contention of law that the subject's 2014 assessment should reflect the subject's 2013 assessment, subject to the St. Charles Township equalization factor of 1.000 applied in tax year 2014. The appellant asserted and the board of review did not refute that the subject's assessment was reduced by the Kane County Board of Review in tax year 2013. In support of the legal argument, the appellant provided a brief and citation to Section 16-80 of the Property Tax Code (35 ILCS 200/16-80). 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 Property Tax Appeal Board is mandated to determine "the correct assessment of the property which is the subject of an appeal." (35 ILCS 200/16-180) In this matter, the appellant contends that the correct assessment is derived from applying Section 16-80 of the Property Tax Code (35 ILCS 200/16-80) which the appellant contends was not properly applied by the Kane County Board of Review to the subject property.

Section 16-80 of the Property Tax Code (35 ILCS 200/16-80) states in relevant part:

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.

Based on this provision and in the absence of substantial cause, the Property Tax Appeal Board finds the board of review is bound to its decision issued for the 2013 assessment year of the subject property, subject only to equalization.

The general assessment years for Kane County are based upon Section 9-215 of the Property Tax Code (35 ILCS 200/9-215):

General assessment years; counties of less than 3,000,000. Except as provided in Sections 9-220 and 9-225, in counties having the township form of government and with less than 3,000,000 inhabitants, the general assessment years shall be 1995 and every fourth year thereafter. In counties having the commission form of government and less than 3,000,000 inhabitants, the general assessment years shall be 1994 and every fourth year thereafter.

There is no dispute on this record that tax years 2013 and 2014 are within the same general assessment period in Kane County in accordance with the foregoing provision.

For this 2014 assessment appeal before the Property Tax Appeal Board, the appellant included a copy of the Notice of Findings issued by the Kane County Board of Review for tax year 2014. This document sets forth the "Assessed value prior [to] Board of Review action," the "Assessed value after Board of Review action" and the "Assessed value after Board of Review equalization." Each of these respective columns for assessment data reflect unchanged land, improvement and total assessments with a total assessment for the subject property of \$232,491. The Notice of Findings also sets forth the reason for change issued by the Kane County Board of Review as "confirmed based on evidence submitted."

The record also contains a copy of the Notice of Findings issued by the Kane County Board of Review for tax year 2013. This document likewise sets forth the "Assessed value prior [to] Board of Review action" of \$239,423; the "Assessed value after Board of Review action" of \$184,167; and the "Assessed value after Board of Review equalization" of \$184,167. The Notice of Findings also sets forth the reason for change issued by the Kane County Board of Review for tax year 2013 as "revalue per agreement between taxpayer and assessor."

The issue placed before the Property Tax Appeal Board is whether the comparable sales and/or the building permit obtained in May 2013 for the subject property justify or qualify as "substantial cause" to alter the subject property's 2014 assessment. After examining the evidence and based upon Section 9-80, the Property Tax Appeal Board finds the building permit and resulting modifications to the subject property qualify as "substantial cause" on this limited record. The remaining issue before the Board is whether the increased assessment for tax year 2014 is correct based upon the building permit evidence in the record.

While the phrase "substantial cause" is used in the Property Tax Code, neither the Code itself nor case law/court decisions have rendered a standard or definition for what constitutes substantial cause as stated in Section 9-80. On this record, while it is not explicitly stated, the Board has presumed that the Kane County Board of Review contends that the comparable sales grid of four properties presented by the township assessor was "substantial cause" to alter the subject's assessment for tax year 2014. Despite the lack of guidance, the Property Tax Appeal Board has examined the four comparable sales and the Board finds that these comparable properties differ substantially from the subject in land area, dwelling size, age and/or features such that the sales

present insufficient market value evidence to justify "substantial cause" to alter the subject's assessment from the reduction previously rendered by the Kane County Board of Review.

Next on this record is the issue of the building permit being "substantial cause" to alter the subject's assessment as set forth in Section 9-80. First, the Board finds the record is very sparse from the assessing officials as to what work was performed to "refurbish" the pool. The subject's property record cards reflects the building permit was issued on May 14, 2013 for an amount of \$66,800 and the reason was "pool." There are no photographs identified as before and after pool renovations although there is one black and white photo identified as "pool with pool house" and a date of July 31, 2013 as part of the property record card. The appellant in rebuttal provided greater detail of the renovations and explained that this was primarily maintenance.

Section 10-20 of the Property Tax Code (35 ILCS 200/10-20) provides:

Maintenance and repairs to residential property owned and used exclusively for a residential purpose shall not increase the assessed valuation of the property. For purposes of this Section, work shall be deemed repair and maintenance when it (1) does not increase the square footage of improvements and does not materially alter the existing character and condition of the structure but is limited to work performed to prolong the life of the existing improvements or to keep the existing improvements in a well maintained condition; and (2) employs materials, such as those used for roofing or siding, whose value is not greater than the replacement value of the materials being replaced. Maintenance and repairs, as those terms are used in this Section, to property that enhance the overall exterior and interior appearance and quality of a residence by restoring it from a state of disrepair to a standard state of repair do not "materially alter the existing character and condition" of the residence.

On this limited record, the Board finds that the changing of the pool deck from wood to colored concrete does materially alter the character and condition and has gone beyond merely prolonging the life of the existing property. There is no evidence in the record specifically whether the colored concrete is greater in value than the replacement value of the former wood deck.

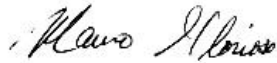
In summary, the Property Tax Appeal Board accepts that the demolition of wood decking and installation of colored concrete around the pool constitutes an improvement to the property which qualifies as "substantial cause" to not maintain the 2013 tax year assessment of the subject property under Section 16-80 of the Property Tax Code. There is a lack of evidence of record as to the actual costs of the work performed under the permit beyond the stated "value" of the permitted work of \$66,800.

On this limited evidence, the Board finds that the assessing officials have failed to justify the increase in the subject's improvement assessment of more than \$49,000 for building permit work which would reflect a market value of more than \$147,000. The Property Tax Appeal Board finds that the refurbishing of the pool and surrounding area qualifies as "substantial cause" and the subject's 2013 assessment shall be increased to reflect the building permit. The documentation filed by the appellant reflects that the subject's 2013 assessment was \$184,167

and increased in 2014 to \$232,491. The record also depicts a building permit with a value of \$66,800 was obtained by the appellant in May 2013.

Based on the above facts and argument, the Property Tax Appeal Board finds a reduction in the subject's assessment is warranted to reflect the subject's 2013 assessment of \$184,167 with addition of a portion of the building permit.

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.



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Chairman



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Member



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Member



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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: July 22, 2016



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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.