



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

APPELLANT: Paula Harrington, Living Trust
DOCKET NO.: 14-02372.001-R-1
PARCEL NO.: 15-13-237-005

The parties of record before the Property Tax Appeal Board are Paula Harrington, Living Trust, the appellant, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$13,605
IMPR.: \$68,929
TOTAL: \$82,534

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 exterior construction with 1,969 square feet of living area. The dwelling was constructed in 2007. Features of the home include a partial basement, central air conditioning and an attached 420 square foot garage. The property has a 6,300 square foot site and is located in Aurora, Aurora Township, Kane County.

The appellant contends assessment inequity as the basis of the appeal concerning the subject's improvement assessment. No dispute was raised concerning the land assessment. In support of this inequity argument, the appellant submitted information on eight equity comparables located in the same subdivision as the subject property. The comparables consist of one-story frame dwellings that each contain 1,969 square feet of living area with 1,661 square foot basements. It was unknown if the comparables have basement finish. Each home has central air conditioning along with a 420 square foot garage. The appellant reported the comparables range in age from

7.2 to 9.1 years of age. The eight comparables have improvement assessments ranging from \$68,858 to \$69,265 or from \$34.97 to \$35.18 per square foot of living area.

Additionally, the appellant submitted a brief with the appeal contending that the subject dwelling should not be treated as being in "average condition" given that the dwelling "has some permanent major construction defects" warranting a reduction in the subject's improvement assessment. In support of the "construction defects" the appellant provided a copy of a letter prepared by the appellant dated September 6, 2014 which was presented to the Kane County Board of Review along with supporting photographs. According to the appellant within this letter, the construction defects have been addressed as much as possible, but the defects still exist and "will negatively affect Fair Cash Value." The appellant contends that the subject dwelling was delivered after construction with "numerous split floor joists (9), a floor plate that was improperly positioned on the home's foundation, and major hardwood floor damage that resulted from a bad installation." The appellant opined that these construction defects are permanent in nature.

Based upon the foregoing evidence and argument about construction defects, the appellant requested a reduced improvement assessment of \$65,395 or \$33.21 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$82,534. The subject property has an improvement assessment of \$68,929 or \$35.01 per square foot of living area.

In support of its contention of the correct assessment the board of review contended that all of the homes were "built by the same developer each having similar construction quality." The board of review also included a grid analysis with information on five equity comparables. The comparables consist of one-story frame dwellings that were built between 2007 and 2013. The homes range in size from 1,927 to 1,969 square feet of living area and feature full or partial basements ranging in size from 1,412 to 1,967 square feet of building area. Each comparable has a 420 or 440 square foot garage. The comparables have improvement assessments ranging from \$68,632 to \$74,470 or from \$35.45 to \$37.82 per square foot of living area.

The board of review also submitted a grid analysis of six comparable sales. While this data is not directly responsive to the appellant's lack of assessment uniformity claim, it is noteworthy that similar dwellings that were built between 2007 and 2013 and which range in size from 1,927 to 1,969 square feet of living area sold between April 2011 and June 2013 for prices ranging from \$272,000 to \$315,990 or from \$138.28 to \$163.98 per square foot of living area, including land. The subject's total assessment reflects an estimated market value of \$247,924 or \$125.91 per square foot of living area, including land, as reflected by its assessment and the 2014 three year median level of assessment for Kane County of 33.29% as determined by the Illinois Department of Revenue, which is below the recent sales data both in terms of overall value and on a per-square-foot basis.

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

In written rebuttal, the appellant disputed the board of review's assertion that "all the homes were built by the same developer" with similar construction quality. The appellant reiterated the assertion that the subject dwelling due to the construction defects is not truly comparable to these other properties. The appellant also noted that despite the assertion on the "Board of Review Notes on Appeal" the appellant did not appear for a hearing and instead allowed the board of review to render a decision on the evidence in the record.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal and further asserts that the subject dwelling contains construction defects. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

Initially, the Board gives little weight to the appellant's letter outlining construction defects as supported by several black and white photographs. First, there is nothing in the record to indicate that the appellant has any construction expertise or experience in structural engineering to support the various assertions about a floor plate that was improperly positioned on the home's foundation and major hardwood floor damage that resulted from "a bad installation." Moreover, the appellant has a self-interest in the outcome of the appeal and would not be an unbiased third party with regard to these purported construction defects. As such, the Property Tax Appeal Board finds the fact these construction defects were solely reported by the appellant undermines her objectivity to give either unbiased and/or expert evidence which therefore detracts from the credibility of her assertions.

Second, the Board finds that the appellant's outline of construction defects was based on general characteristics with no expert evidence such as a structural engineer or architect or even a contractor setting forth the amount of damage and/or the cost to cure the purported defects. The Board finds that this type of unsupported and unsubstantiated analysis by the appellant does not adequately consider the physical characteristics of the subject dwelling and fails to make a meaningful analysis of the similarity of the subject to the comparable properties based upon the differences, if any, in construction defects and/or what impact on value those defects may have in a future sale transaction.

As stated by the Supreme Court of Illinois in Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 544 N.E.2d 762, 136 Ill.Dec. 76 (1989):

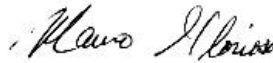
[T]he cornerstone of uniformity is the fair cash value of the property in question. .
. [U]niformity is achieved only when all property with the same income-earning capacity and fair cash value is assessed at a consistent level.

Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d at 21, 544 N.E.2d at 772. In this appeal the appellant failed to demonstrate the comparables and the subject had similar fair cash values but were assessed at substantially lesser or greater proportions of their fair cash values. In the absence of evidence demonstrating the comparables and the subject have similar or even dissimilar fair cash values, the Property Tax Appeal Board will examine the physical characteristics of the subject and the comparables to determine if the buildings are sufficiently similar so as to be indicative of similar fair cash values and thus necessitating similar assessments.

A review of the comparables disclosed that those most similar to the subject in age, size and construction included the appellant's comparables #1 through #8 and comparables #1 and #2 submitted by the board of review. These ten comparables were each one story dwellings of frame exterior construction that varied in age but each contained 1,969 square feet of living area. These comparables had improvement assessments that ranged from \$34.97 to \$37.82 per square foot of building area. The subject has an improvement assessment of \$35.01 per square foot of living area which is within the range established by the most similar comparables and appears to be justified when giving due consideration to the subject's date of construction as compared to these most similar comparable properties. Based on this data the Property Tax Appeal Board finds a reduction in the subject's improvement assessment is not justified.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960). Although the comparables presented by the parties disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no reduction is 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.



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: October 21, 2016



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.