



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

APPELLANT: Terry E. & Amy E. Suessen
DOCKET NO.: 14-02567.001-R-1
PARCEL NO.: 09-23-151-010

The parties of record before the Property Tax Appeal Board are Terry E. & Amy E. Suessen, the appellants,¹ 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: \$44,996
IMPR.: \$88,324
TOTAL: \$133,320

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 two-story single-family dwelling of brick exterior construction with 2,861 square feet of living area. The dwelling was constructed in 1981. Features of the home include a partial basement with finished area, central air conditioning, two fireplaces and a 736 square foot garage. The property has a 36,590 square foot site and is located in St. Charles, St. Charles Township, Kane County.

The appellants, in part, contend the basis of the appeal is a contention of law. In support of this legal argument, the appellants through former legal counsel submitted a memorandum outlining the issue. The appellants contend that the subject's assessment for the 2013 tax year was reduced to \$133,320 by the Kane County Board of Review. (A copy of the 2013 tax year Notice of Findings issued by the Kane County Board of Review was included with the evidence.) Former

¹ Attorney Jerri K. Bush withdrew her appearance as counsel for the appellants by a filing dated March 16, 2016.

counsel further asserted that tax years 2013 and 2014 are within the same general assessment period.

Therefore, pursuant to Section 16-80 of the Property Tax Code (35 ILCS 200/16-80) the appellants 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.

The Property Tax Appeal Board takes judicial notice that a 2014 township equalization factor of 1.0000 was applied in St. Charles Township. (See 86 Ill.Admin.Code §1910.90(i))

Additionally, the appellants contended the subject property was overvalued based upon the July 27, 2012 purchase price of the property for \$400,000 that occurred between unrelated parties after the property had been advertised on the open market through the Multiple Listing Service and by sign, internet and/or auction for a period of 317 days. Supporting documentation of the sale price and date via the Settlement Statement that also depicted the distribution of brokers' fees to two entities was included with the evidence.

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 appellants requested a reduction in the subject's total assessment to \$133,320.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$145,131. The subject's assessment reflects a market value of \$435,960 or \$152.38 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 submitted a two-page letter from Diane Hemmingsen, CIAO and Chief Residential Deputy Assessor in St. Charles Township along with additional data. In the letter, the assessor relied upon Section 9-75 of the Property Tax Code (35 ILCS 200/9-75) for the proposition that the township assessor "may in any year revise and correct an assessment as appears to be just." The assessor contends that this provision of the Code is not limited by Section 16-80 of the Code. Furthermore, Section 16-80 provides that an assessment may be modified if "substantial cause" exists and, in the case of the subject property, "more recent sales activity closer to the January 1, 2014 valuation date indicate values for homes in the subject area have increased since the subject's 2012 sale."

In further support of the subject's assessment, the assessor provided data on five comparable sales.

The comparable dwellings consist of a 1.5-story and four, two-story homes of brick or brick and frame exterior construction that were built between 1984 and 1995. The homes range in size from 2,539 to 3,290 square feet of living area and feature basements, four of which have finished area. Each dwelling has central air conditioning, one or two fireplaces and a garage ranging in size from 702 to 782 square feet of building area. The comparables sold between April 2013 and

May 2014 for prices ranging from \$445,000 to \$570,000 or from \$149.00 to \$181.18 per square foot of living area, including land.

Based on the foregoing sales evidence and legal argument, the board of review requested confirmation of the subject's 2014 assessment of \$145,131.

In written rebuttal, former counsel for the appellants 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 and reliance upon "substantial cause" merely due to sales and valuation practices does not override Section 16-80 of the Code. Counsel further argued that the sale of the subject is the best evidence of its market value.

Conclusion of Law

The appellants based this appeal, in part, 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 appellants 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 appellants 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.

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.

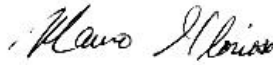
There was no assertion made by the assessing officials as part of this appeal that substantial changes had occurred to the subject property to justify an increase in assessment from 2013 to 2014. Instead, the basis for changing the assessment was (a) the authority of assessors to modify assessments "as appears to be just" and (b) more recent sales in the area. The Property Tax Appeal Board finds that the board of review did not establish "substantial cause" to alter the subject's assessment as provided in Section 16-80. The appellants also asserted that tax years

2013 and 2014 are in the same general assessment cycle (see 35 ILCS 200/9-215). The board of review also did not refute this assertion about the general assessment cycle.

The documentation filed by the appellants reflects that the subject's 2013 assessment was \$133,320 and increased in 2014 to \$145,131. The Board finds that the board of review also did not refute this factual assertion of the appellants' argument or otherwise show substantial cause why the reduced assessment should not remain in effect, subject to equalization. The Board takes notice that a 1.0000 equalization factor was applied in St. Charles Township in 2014.

Based on the above facts and argument, which the board of review did not refute, the Property Tax Appeal Board finds a reduction in the subject's assessment is warranted to reflect the subject's 2013 assessment of \$133,320 with application of the St. Charles Township equalization factor of 1.0000.

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

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: _____

April 21, 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.