



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

APPELLANT: Kenneth A. Sorensen
DOCKET NO.: 14-03861.001-R-1
PARCEL NO.: 04-08-100-014

The parties of record before the Property Tax Appeal Board are Kenneth A. Sorensen, the appellant, by Jessica Hill-Magiera, Attorney at Law, in Lake Zurich, 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: \$35,531
IMPR.: \$31,129
TOTAL: \$66,660

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a 2013 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 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 brick construction with 1,652 square feet of living area. The dwelling was constructed in 1971. Features of the home include a full basement, a fireplace and an attached 552 square foot garage. The property has a 4.62-acre site and is located in Sycamore, Burlington Township, Kane County.

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 13-02318.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$66,660 based on the evidence submitted by the parties. The appellant based this appeal on a contention of law and asserted that the subject property is owner occupied such that, in accordance with Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the 2013 assessment determination of the Property Tax Appeal Board should be carried forward to

tax year 2014 as both 2013 and 2014 are in the same general assessment cycle in Kane County. (See 35 ILCS 200/9-215).

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$66,660.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$73,259. The subject's assessment reflects a market value of approximately \$219,799 or \$133.05 per square foot of living area, land included, when using the statutory level of assessment of 33.33%.

In response to the appeal, the board of review argued that the subject's May 2012 sale price of \$200,000 reflected an "as is" condition and since the purchase, improvements have been made with permits as depicted in the evidence. Therefore, the board of review asserts the subject is being fairly assessed.

Furthermore, the board of review submitted a nine-page memorandum with data prepared by the Burlington Township Assessor Debbie McKermitt. The assessor provided a copy of a building permit dated June 6, 2012 for "remove shingles and apply new" along with copies of two other permits both of which are dated April 13, 2013. These latter permits provide (1) "pond deck and temporary floating dock" and (2) "shed (2)." The assessor further contends that other improvements have been made to the subject without permits, namely, a third shed, a "deck on the rear of the house" and "new windows and doors including 2 car garage door with windows." Given a directive not to enter the subject property by the appellant, the assessor provided aerial photographs and photographs taken from the public road to support the assertion that these improvements have been made. The assessor also reported that a home improvement exemption was issued to the subject property on January 1, 2014 due to the improvements that were added by permit.

As part of the memorandum, the assessor noted that a third shed and a rear deck to the dwelling were discovered in preparing a response to this appeal. "Since no permits were issued on these items, they were not assessed and I was denied access to measure them." A copy of the subject's property record card includes a notation of three sheds with a total size of 576 square feet of building area. The property record card for the subject property that was provided fails to depict a cost ladder and specifically fails to depict the assigned market value(s) of the sheds, deck or any other specific improvement of the subject property.

The assessor's submission includes a grid analysis of five comparable sales located in either Hampshire or Maples Park, Illinois and which are located from 2.53 to 5.63-miles from the subject property. The comparables consist of one-story frame, log, masonry or frame and masonry dwellings. The comparables were built between 1949 and 1980. The homes range in size from 1,248 to 2,160 square feet of living area. Each comparable has a full or partial basement and a detached garage ranging in size from 576 to 1,680 square feet of building area. The comparable parcels range in size from 1.97 to 9.5-acres of land area, but comparables #2 through #4 have from 1 to 2.28-acres of "non-farm" land each. The properties sold between August 2010 and December 2012 for prices ranging from \$164,000 to \$370,000 or from \$131.41 to \$238.71 per square foot of living area, including land.

The assessor in the memorandum further opined that the subject's "low sale price is an indicator of 'under market value'" and the subsequent permits for a new roof, windows and doors shortly after the sale "without permits reinforce the 'as-is' under market value." The assessor contends that, with all of the known improvements to the property, the subject's assessment is fair if not low.

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

In written rebuttal, counsel for the appellant noted that the board of review did not dispute the appellant's contention that the subject is owner-occupied residential real estate subject to application of Section 16-185 of the Property Tax Code (35 ILCS 200/16-185).

Conclusion of Law

The subject property was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 13-02318.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$66,660 based on the evidence submitted by the parties.

As to the new roof, windows and/or garage door cited by the assessor in response to this appeal, the Property Tax Appeal Board takes judicial notice of Section 10-20 of the Property Tax Code (Code) (35 ILCS 200/10-20) which 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.

Therefore, the Board finds this legislation provides that maintenance and repairs to a structure shall not increase the assessed valuation unless the change increases the square footage, materially alters the character and condition of the structure, goes beyond merely prolonging the life of the existing structure or used materials that were greater in value than the replacement value of the materials being replaced. Based on the limited submission by the assessing officials in this matter, the Board finds that there is no evidence that the roof, windows and/or garage door were anything other than repairs or maintenance of the existing structure.

Furthermore, while the assessing officials report additional new (presumably assessable) structures having been erected on the subject property such as three sheds, a deck and a dock, the assessing officials provided no data of the assessable value of those new improvements. (See 35 ILCS 200/9-160 and/or 9-180) Section 9-160 provides in pertinent part:

. . . the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. . . . [Emphasis added.]

Alternatively, Section 9-180 provides in pertinent part:

Pro-rata valuations; improvements or removal of improvements. The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. . . .

While the assessing officials contend that there were new or added improvements to the subject property consisting of three sheds, a deck on the rear of the dwelling and a dock, the assessing officials have failed to provide the value in their opinion of those added improvements. Therefore, the Property Tax Appeal Board lacks the necessary evidence to consider adjusting the assessment of the subject property in light of either Section 9-160 or 9-180 of the Code.

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 has 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

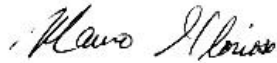
establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

The board of review did not dispute that the subject property is an owner occupied dwelling. The Board finds on this record that the prior year's decision should be carried forward to the subsequent year pursuant to section 16-185 of the Code (35 ILCS 200/16-185) and the fact that 2013 and 2014 are within the same general assessment period in Kane County. The record contains no evidence indicating that the assessment year in question is in a different general assessment period. The record also contains no evidence indicating that the subject property sold subsequent to the 2013 tax year determination in an arm's length transaction. While the Board recognizes that other assessable improvements may have been added to the subject property since the prior assessment determination, in the absence of evidence in the record concerning the market value of those additions, no change in the assessment of the subject can be made for those added improvements.

Moreover, in light of the terms of Section 16-185 of the Code, the Board has given no consideration to the comparable sales data submitted by the assessing officials and also notes that the sales evidence which was submitted was remote in time for a valuation of the subject property as of January 1, 2014.

For these reasons and due to the provisions of Section 16-185 of the Code, the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted commensurate with the appellant's request.

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: January 27, 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.