



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

APPELLANT: Joseph Dichiarro  
DOCKET NO.: 14-03899.001-R-1  
PARCEL NO.: 06-35-279-016

The parties of record before the Property Tax Appeal Board are Joseph Dichiarro, 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 **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:** \$7,797  
**IMPR.:** \$37,891  
**TOTAL:** \$45,688

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 dwelling of brick construction with 1,200 square feet of living area. The dwelling was constructed in 1964. Features of the home include a full unfinished basement and a detached 352 square foot garage. The property has a 7,920 square foot site and is located in South Elgin, Elgin Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted evidence concerning a 2012 purchase price of the subject property along with submission of information on eight comparable sales.

As to the purchase of the subject, the appellant disclosed the subject property was purchased in October, 2012 for a price of \$85,000. The appellant partially completed Section IV - Recent Sale Data of the appeal petition disclosing the parties to the transaction were not related, the

property was sold using a Realtor and the property had been advertised on the open market with the Multiple Listing Service. In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the purchase price and date; a copy of the Multiple Listing Service data sheet depicting that the property was sold "as-is" and was a short sale with the property having been on the market for 169 days; a copy of the Listing & Property History Report depicting the property was listed on January 16, 2012 with an asking price of \$129,000 followed by six asking price reductions until a final asking price of \$99,000 on June 8, 2012; and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration reiterating the sale date, price and that the property was advertised prior to the sale. There was no information provided in response to the Section IV question, "If renovated, amount spent before occupying" which sought a dollar amount and date of occupancy.

As to the comparable sales data, the appellant's grid analysis depicts data on the proximity, design, year of construction, dwelling size, basement size and type, fireplace amenity, air conditioning amenity and garage size along with sale date, sales price and price per square foot of living area of the properties. The comparables consist of a one-story dwellings, one of which is located in the same subdivision as the subject property and were located from .03 to .96 of a mile from the subject property. The homes were built between 1956 and 1965 and range in size from 1,001 to 1,404 square feet of living area. Each comparable has a full or partial basement, one comparable has a fireplace, five of the comparables have central air conditioning and each comparable has a garage ranging in size from 264 to 576 square feet of building area. The properties sold between January 2013 and December 2013 for prices ranging from \$59,400 to \$112,001 or from \$56.25 to \$94.22 per square foot of living area, including land. The analysis included a section entitled Property Equalization Values which appears to depict adjustments to the comparable properties for land, age, size, basement area, baths, fireplace, air conditioning and/or garage size. The bottom of the analysis depicted a reduction in the subject's assessment of \$17,357 to arrive at an assessment reflective of the subject's October 2012 purchase price of approximately \$85,000. At the end of the analysis, data sources were listed as Assessor, County, MLS, Realist and Marshall & Swift. No evidence or explanation pertaining to the calculation of the adjustment amounts was submitted.

Based on this evidence, the appellant requested an assessment reflective of the subject's 2012 purchase price as of the assessment date of January 1, 2014.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$45,688. The subject's assessment reflects a market value of \$137,242 or \$114.37 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 support of its contention of the correct assessment the board of review through the township assessor submitted a memorandum along with information on four comparable sales. In the memorandum, the assessor acknowledged the subject's sale date, but also noted that within a month the property was listed in the MLS for rent. The rental listing reported the property was recently rehabbed and had brand new kitchen cabinets, counter tops and stainless steel appliances along with a brand new washer and dryer. A copy of the listing was included in the submission.

In light of the rehabilitation of the property, the assessor contended that the subject property was no longer in the same condition as it was at the time of sale.

In further support of the assessment, the assessor provided data on four comparable sales located in South Elgin of one-story frame, brick or frame and brick dwellings that were built between 1947 and 1972. The homes range in size from 1,008 to 1,126 square feet of living area and feature full basements, three of which are finished, central air conditioning and three of the comparables each have a fireplace. Each comparable has a garage ranging in size from 264 to 671 square feet of building area. The comparables sold from June 2010 to March 2013 for prices ranging from \$139,000 to \$164,000 or from \$123.00 to \$155.00 per square foot of living area, including land, rounded.

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 the lack of any response to the appellant's comparable sales data.

As to the improvements to the subject property after purchase, counsel argued that in accordance with Section 10-20 of the Property Tax Code (35 ILCS 200/10-20)<sup>1</sup> maintenance and repairs to a structure shall not increase the assessed valuation unless the change increases the square footage. Since no square footage was added, counsel argues the improvements should not add value to the property as it was merely repairs and maintenance.

As to the four comparables presented by the board of review, counsel for the appellant argued that sales #2 and #3 sold in 2010 and 2012, dates too remote in time to be indicative of market value in 2014. Furthermore, sale #4 is about 16% smaller than the subject dwelling and thus not an appropriate comparable.

Counsel further indicated that board of review sale #1 is an "acceptable" comparable and placed that property in a grid along with appellant's comparables #2, #3, #4 and #7. Considering all of these "best" comparable sales, counsel argued that a reduction in the subject's assessment is warranted and further argued that an analysis of raw sales prices per square foot "does not take into account the fundamental concept of using a median sale price/SF to determine market value." Appellant further argued that using a median sale price per square foot "is more accurate and should be standard practice for determining fair market value."

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<sup>1</sup> "Repairs and maintenance of residential property. 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."

### **Conclusion of Law**

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

As an initial matter, the Property Tax Appeal Board gave no weight to the appellant's argument that the Board should adopt a standard practice of using the median sale price per square foot of living area, including land, of those comparables deemed best in determining fair market value because it is "more accurate." Contrary to this argument, the decision of the Property Tax Appeal Board must be based upon equity and the weight of evidence, not upon a simplistic statistical formula of using the median sale price per square foot of living area, including land, of those comparables determined to be most similar to the subject. (35 ILCS 200/16-185; Chrysler Corp. v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2<sup>nd</sup> Dist. 1979); Mead v. Board of Review, 143 Ill.App.3d 1088 (2<sup>nd</sup> Dist. 1986); Ellsworth Grain Co. v. Property Tax Appeal Board, 172 Ill.App.3d 552 (4<sup>th</sup> Dist. 1988); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5<sup>th</sup> Dist. 1989)). Based upon the foregoing legal principles and contrary to the assertion of the appellant's counsel in the rebuttal brief, there is no indication that a "median sale price per square foot" is the fundamental or primary means to determine market value.

As to the market value contention in this matter, the parties submitted the October 2012 sale of the subject property along with 12 suggested comparable sales for consideration by the Property Tax Appeal Board. The Board has given reduced weight to board of review comparables #2 and #3 along with the sale of the subject as these properties sold in 2010 and 2012, dates more remote in time and less indicative of the subject's estimated market value as of January 1, 2014. The Board further recognizes that the appellant argued in rebuttal that a 2012 sale price for board of review comparable #2 is not valid evidence of market value, which therefore eliminates the sale price of the subject property. The Property Tax Appeal Board has also given reduced weight to appellant's comparables #1, #5, #6 and #8 along with board of review comparable #4 as these dwellings differ most greatly from the subject in age and/or dwelling size.

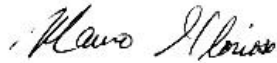
As to the contention that the subject property was rehabilitated after the purchase, the appellant's rebuttal did not specifically address the amount expended in renovations and/or what renovations were performed. In this regard, the appellant just generally denied that any value was added because no dwelling size was added. The rebuttal, however, did not address any specifics to allow a determination whether the changes were merely maintenance and repairs as opposed to increasing the value of the property. Moreover, the appellant failed to refute the contention that the subject dwelling was modified with brand new kitchen cabinets, counter tops and stainless steel appliances.

Given this record, the Property Tax Appeal Board finds the best evidence of market value in the record to be appellant's comparable sales #2, #3, #4 and #7 along with board of review comparable sale #1. These comparables sold between January 2013 and December 2013 for

prices ranging from \$81,000 to \$139,000 or from \$66.34 to \$123.45 per square foot of living area, including land. These sales provided by the parties had varying degrees of similarity to the subject property. The appellant's sales appear to set the low end of the range. In contrast, the April 2013 sale identified by the township assessor sets the upper end of the range. The subject's assessment reflects a market value of \$137,242 or \$114.37 per square foot of living area, including land, which appears to be justified when giving due consideration to the best comparable sales in the record along with subsequent unknown/unspecified changes of brand new kitchen cabinets, counter tops and stainless steel appliances installed in the subject property.

Based on this evidence and analysis, the Board finds a reduction in the subject's assessment is not 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: 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.