



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

APPELLANT: Michelle & Nicholas Hedke
DOCKET NO.: 14-03914.001-R-1
PARCEL NO.: 06-20-352-001

The parties of record before the Property Tax Appeal Board are Michelle & Nicholas Hedke, the appellants, 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: \$21,814
IMPR.: \$52,186
TOTAL: \$74,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 is improved with a part two-story and part one-story dwelling of brick exterior construction with 3,514 square feet of living area. The dwelling was constructed in 2005. Features of the home include a partial basement, central air conditioning, one fireplace and a built-in garage with 416 square feet of building area. The property has a 12,549 square foot site and is located in Elgin, Elgin 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 13-02369.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$74,000 based on the evidence submitted by the parties. The appellants 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 (hereinafter "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 appellants requested a reduction in the subject's assessment to \$74,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$96,243. The subject's assessment reflects a market value of approximately \$289,105 or \$82.27 per square foot of living area, land included, when using the three year median level of assessments in Kane County of 33.29% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review reported the "subject is currently under contract after being listed in the local MLS for \$384,900 substantially less [*sic*] than its current assessed value." In further response to the appeal, the board of review submitted a memorandum prepared by the Elgin Township Assessor's Office arguing that since the 2012 sales of the subject property, the property is "currently listed and contingent at \$384,900 (as of 6/2016, See attached MLS)" to the memorandum. In light of this listing the assessor noted that it is reasonable to conclude that the appellants' opinion of value with regard to the subject has changed with a selling price that is \$162,900 more than the Property Tax Appeal Board's 2013 decision.

The township assessor also submitted a copy of the subject's property record card which depicts the address of the subject property and that the "billing" address is the same as the subject property while also naming the appellants as the persons to be billed.

Lastly, the assessor submitted a grid analysis of "all" sales of Ultima model homes from 2012 to 2014 as evidence. The eight comparables are described as part one-story and part two-story frame or frame with brick trim dwellings that were built between 2005 and 2007. The homes range in size from 3,283 to 3,789 square feet of living area. Each comparable has a basement, three of which have finished area. The comparables have central air conditioning and seven comparables have a fireplace. The comparables also have garages ranging in size from 416 to 647 square feet of building area. The properties sold between June 2012 and October 2014 for prices ranging from \$279,900 to \$369,000 or from \$85.26 to \$112.40 per square foot of living area, including land.

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

In written rebuttal, counsel for the appellants noted that the board of review did not dispute the appellants' contention that the subject is owner-occupied residential real estate subject to application of Section 16-185 of the 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 13-02369.001-R-1. In that appeal the Property Tax Appeal

Board rendered a decision lowering the assessment of the subject property to \$74,000 based on the evidence submitted by the parties.

The appellants' 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 appellants in this appeal have 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. [Emphasis added.]

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. Instead, the board of review and assessor established that two years later, in June 2016, the subject property had an asking price of \$384,900 as part of a MLS listing. In light of the terms of Section 16-185 of the Code, the Board has given no consideration to the June 2016 asking price or to the comparable sales data submitted by the assessing officials.

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 appellants' 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: _____

February 24, 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.