



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

APPELLANT: David P. & Karen L. Scott  
DOCKET NO.: 15-00158.001-R-1  
PARCEL NO.: 14-2-15-10-03-302-019

The parties of record before the Property Tax Appeal Board are David P. and Karen L. Scott, the appellant, by attorney Ellen M. Edmonds of the Edmonds Law Office in Edwardsville; and the Madison 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 **Madison** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$25,290  
**IMPR.:** \$93,350  
**TOTAL:** \$118,640

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the Madison County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 tax year.<sup>1</sup> 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 and vinyl siding exterior construction with 3,100 square feet of living area. The dwelling was built in 2000. Features of the home include a full basement, central air conditioning, one fireplace and a three-car attached garage with 826 square feet of building area. The property is located in the Lincoln Knolls subdivision, Edwardsville, Edwardsville Township, Madison County.

Appearing before the Property Tax Appeal Board on behalf of the appellants was attorney Ellen Edmonds. The appellants contend the appeal relates to the devaluation of the property as the result of the condition of a dam located on the property. The appeal involves a retention lake and dam for the Lincoln Knolls/Timberlake subdivisions in Edwardsville. The appellants explained

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<sup>1</sup> This was a consolidated hearing with Docket No. 15-00157.001-R-1 as the arguments and evidence is substantially the same in both appeals.

in a written statement that in the summer of 2015 a neighbor noticed water flowing under, instead of through, the spillway going from the lake through the dam. Inspection revealed the spillway was in disrepair in that water was flowing around the spillway and was working its way through the earthen of the dam. The City of Edwardsville refused to assist in the repair and referred the matter to the Illinois Department of Natural Resources (IDNR). IDNR inspected the dam and subsequently sent a letter to the property owners demanding they take action. The appellants explained that the lake is not common area and each lake owner owns a pie wedge into the lake. The dam was identified as being on the appellants' property and the neighboring adjacent property owned by Jonathan & Ellen Edmonds (See PTAB Docket No. 15-00157.001-R-1). Ms. Edmonds explained the biggest part of the dam is located on the Scott's property, but the overflow is on the Edmonds' property.

Ms. Edmonds explained that they had cost estimates to repair the dam totaling between \$57,564 and \$68,364, but it is unknown how much the repairs might actually cost until completed. The appellants asserted that the repairs the IDNR is demanding will require a permit, causing the dam to become registered/regulated dam. The appellants contended that there is no homeowner's association in the subdivision, which makes it difficult to determine a way the owners can work together to resolve the issue. The appellants explained in their written submission that based on the IDNR letter and discussions with engineers, they may end up having to pump water out of the lake to lower the water level and keep the level low until the dam is fixed to prevent to breach of the dam and potential harm to persons or property downstream.

The appellants are of the opinion that they would be unable to find a willing buyer given this situation. They assert there is no homeowner's association to share expenses relating to the repairs and future inspection/maintenance; going forward the dam will be regulated subject to inspections on a regular basis in perpetuity; and until the dam is repaired liability for damage to persons and property will remain an issue.

The appellants submitted a copy of a letter from Paradigm Tax Group dated August 15, 2015, asserting that, among other things, they had reviewed the letter from the IDNR dated June 11, 2015. Paradigm Tax Group concluded the marketability of a residential property with the noted defect is adversely affected to the point that a typical buyer would not consider purchasing the property without the seller's prior correction of the defect. The letter goes on to state that given the extent of the repairs required and potential liability until the repairs are completed, the subject property suffers from near complete lack of marketability in its current condition.

The appellants also submitted a publication from the International Association of Assessing Officers entitled "Standard on the Valuation of Properties Affected by Environmental Contamination," approved in July 2001. The appellants noted the property is not "contaminated" but thought the standards are applicable to the issue they face with the dam.

The appellants submitted written cost estimates, marked as Exhibit E, with a cost to repair estimate ranging from \$30,064 to \$40,864, and marked as Exhibit H, estimating a cost of \$27,500. Ms. Edmonds thought the cost to make the IDNR repairs would be somewhere in the neighborhood of \$100,000.

Based on this evidence the appellants contend their property is not marketable and requested the assessment be reduced to \$33,000.

At the hearing Ms. Edmonds explained that recently, during 2019, a group of neighbors or a “coalition of the willing” each contributed \$1,000, totaling approximately \$10,000 to \$15,000, to put a fix in place. She explained this was not the IDNR fix but a temporary safety response to make sure the dam is safe. She also explained that they have not been contacted again by the IDNR since the first time IDNR contacted them about the dam.

Ms. Edmonds testified that there was a large circular metal standpipe in the middle of the lake that went straight down, was in the shape of an “L”, that went horizontally through the dam and emptied into a creek. Over time the metal pipe rusted, and water began to go around the pipe making a big hole. In making the repairs, the contractor inserted two plastic/rubber pipes side by side near the top of the dam close to the water line and as the lake rises water flows through the pipes. The metal pipe was removed, and the area was reconstructed. Water is no longer seeping under the dam.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$118,640. The subject's assessment reflects a market value of \$358,754 when using the 2015 three-year average median level of assessment for Madison County of 33.07% as determined by the Illinois Department of Revenue.

Appearing before the Property Tax Appeal Board on behalf of the board of review were board members Phil Taylor, Tam Soland and Susan Rolens. They explained the subject property had an initial assessment of \$132,980, reflecting a market value of approximately \$398,940. The board of review was of the opinion that the cost to cure was a reasonable basis to make an adjustment to the subject property for the issues associated with the dam. The board of review estimated the total cost to cure to be \$100,000. The board of review then divided the cost to cure between the two properties associated with the dam to arrive at a cost to cure for the respective properties of \$50,000 each, which resulted in an assessment reduction of \$16,670 to arrive at an adjusted total assessment of \$116,310. This assessment was then adjusted by the township equalization factor of 1.02 to arrive at an equalized assessment of \$118,640.

The estimated cost to cure of \$100,000 was derived by adding \$40,864 contained appellants' Exhibit E, the \$27,500 contained on appellant's Exhibit H and then including an additional cost of approximately \$32,000 for unforeseen expenses associated with the repair.

The board of review requested the assessment be confirmed based on the cost to cure.

### **Conclusion of Law**

The appellants contend 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 appellants have not met this burden of proof and a reduction in the subject's assessment is not warranted.

The appellants contend the subject property is not marketable due to the condition of the dam located on the site. The appellants presented documentation that the retention dam located on the subject property needed repaired to stop the water from seeping through the dam. The Board finds there is no dispute that the dam had seepage and was in need of repair. The Board finds, however, the appellants did not provide an appraisal of the subject property or any other market data establishing the market value of the subject property as of January 1, 2015, considering the condition of the dam. The evidence provided by the appellants included a statement from Paradigm Tax Group that the subject property suffers “from a *near* lack of marketability” in its current condition. This letter does not establish the fact the property is *not* saleable in its current state nor does it offer an alternative opinion of value given the condition of the dam.

The evidence disclosed the board of review adjusted the subject’s assessment based on the appellants’ portion of the cost to cure of \$100,000, established in part on the appellants’ documentation and a buffer for additional unforeseen expenses. Prior to the board of review adjustment, the subject’s assessment totaled \$132,980 reflecting a market value of approximately \$398,940. The subject’s equalized assessment reflects a market value of \$358,754, which appears reasonable given the cost data in the record to make the repairs to the dam and Ms. Edmonds’ estimate that the cost to make the IDNR repairs may be approximately \$100,000.

Based on this record the Property Tax Appeal Board finds the assessment of the subject property as established by the board of review is correct and a reduction is not justified.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member



Member



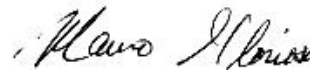
Member

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, 2020



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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