



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

APPELLANT: Michael Zmijewski
DOCKET NO.: 15-04940.001-R-1
PARCEL NO.: 05-14-113-014

The parties of record before the Property Tax Appeal Board are Michael Zmijewski, the appellant, by attorney George J. Relias, of Relias & Tsonis, LLC in Chicago, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$49,620
IMPR.: \$370,520
TOTAL: \$420,140

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage 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. 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 dwelling of masonry construction with 4,771 square feet of living area. The dwelling was constructed in 2002. Features of the home include a full basement with finished area, central air conditioning, two fireplaces¹ and an attached four-car garage of 988 square feet of building area. The property has a 12,423 square foot site and is located in Glen Ellyn, Milton Township, DuPage County.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant submitted information on four equity comparables located within .75 of a mile of the subject property. The comparables consist of a 2.5-story and three, two-story dwellings of frame exterior construction. The homes were built between 1966 and 2008 and

¹ The appellant reported the dwelling does not have a fireplace. The assessing officials reported the home has two fireplaces as depicted in the property record card. The appellant did not rebut this contention.

range in size from 4,366 to 4,876 square feet of living area. Each comparable has a basement, three of which have finished areas. The homes have central air conditioning and for the fireplace it was reported "n/a" like for the subject. The comparables have garages ranging in size from 440 to 511 square feet of building area. The comparables have improvement assessments ranging from \$217,030 to \$256,570 or from \$46.49 to \$52.62 per square foot of living area.

Based on this evidence, the appellant requested a reduced improvement assessment of \$270,521 or \$56.70 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$420,140. The subject property has an improvement assessment of \$370,520 or \$77.66 per square foot of living area.

In response to the appellant's evidence a memorandum from the township assessor noted that the appellant's comparable dwellings were each of frame exterior construction with a two-car garage as compared to the subject's masonry construction and four-car garage; comparables #3 and #4 were newer dwellings with unfinished basements and comparables #1 and #2 are older dwellings. Furthermore, comparable #3 differs in story height when compared to the subject.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on five equity comparables. The comparables consist of two-story masonry dwellings that were built between 2000 and 2008. The homes range in size from 4,553 to 5,021 square feet of living area. Each comparable has a basement, three of which have finished areas. The homes have central air conditioning and from one to three fireplaces along with garages ranging in size from 576 to 985 square feet of building area. The comparables have improvement assessments ranging from \$357,800 to \$386,410 or from \$76.41 to \$80.42 per square foot of living area.

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

In written rebuttal, counsel for the appellant submitted a brief along with a 49-page appraisal of the subject property with an effective date of January 1, 2016 "showcasing the distressed condition of the property." Counsel for the appellant argued that the quality of the subject dwelling is "not in keeping with" the board of review's comparables.

As to the condition of the subject dwelling, counsel contends the home was purchased from foreclosure and prior to the developers' bankruptcy and foreclosure, efforts were made to "cut corners on the interior finish and maintenance" of the home. As such, counsel argued that the poor condition of the subject must be considered in its assessment and therefore older comparables are suitable as more similar in condition to the subject. A review of the appraisal for condition issues reveals the appraiser's opinion the home was "in fair to average condition at the time of visitation for its age with a number of deferred maintenance items noted." (Page 1 of cover letter) The appraiser stated, "Over the past 5 year period, [the owners] have been trying to address as many items [of deferred maintenance] as possible in order to make the living conditions habitable." In 2016, the owners reportedly expended over \$12,000 in improvements. Items of deferred maintenance include the gutter disconnecting from the main building, front

walkway bricks loose, doors drafty/warped with mold at the bottom from rain entering, 1st floor hardwood floor panels loose, holes in the drywall, many of the appliances not operational, a leak in the piping in the basement area, older air conditioning units, the kitchen counter is cracked, and poor drainage along the western elevation of the subject site. (Cover letter, page 2; appraisal p. 24)

Furthermore, argued by appellant in rebuttal, four of the board of review's comparables are "significantly" newer than the subject and require downward adjustments; four of the board of review comparables have more baths than the subject and require downward adjustment; and board of review comparable #4 has more than 1,000 square feet of additional space in the basement when compared to the subject. Lastly, two of the comparables presented by the board of review have more fireplaces than the subject.

In surrebuttal, the board of review argued that the subject dwelling actually has 4.5 bathrooms and four fireplaces, but is being assessed for only 3.5 bathrooms and two fireplaces. Moreover, the board of review contends the submission of an appraisal with a value conclusion as of January 1, 2016 for a 2015 appeal is inappropriate. The assessing officials further provided a market value analysis along with seven suggested comparable sales. Neither the appellant's appraisal nor the board of review's comparable sales have been analyzed on this record as the appeal was not based upon overvaluation.

Conclusion of Law

As an initial matter, the Board recognizes that the appellant submitted an appraisal in rebuttal for purposes of establishing the condition of the subject dwelling and not for an overvaluation argument. The Board further finds the only way that the subject's condition evidence could be presented in rebuttal is if the board of review presented evidence of the condition of the subject property. The Board finds there is no such condition evidence in the record from the board of review.

Having analyzed the data, the Board finds that there is nothing within the board of review's equity submission, either in the grid analysis, the attached property record cards or the assessor's memorandum, concerning the condition of the subject property for the appellant to rebut. The appellant provided data on the condition of the subject purportedly to refute the "presumed assumption of good condition" of the subject. (See appellant's rebuttal brief) The board of review submission had no data concerning "condition, desirability and/or utility" regarding the subject property and as such, there was nothing for the appellant to 'rebut' concerning the perceived "assumption of good condition." In conclusion, the Board finds that the appellant's belated condition argument concerning the subject for purposes of this inequity appeal are given little weight.

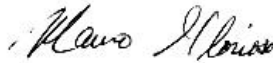
In this appeal, the taxpayer contends assessment inequity as the basis. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject

property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted a total of nine equity comparables to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparables #1 and #2 due to the older dates of construction of these homes when compared to the subject. The Board has also given reduced weight to board of review comparables #1 and #5 due to these homes having significantly more bathrooms than the subject dwelling.

The Board finds the best evidence of assessment equity to be appellant's comparables #3 and #4 along with board of review comparables #2, #3 and #4. These comparables had improvement assessments that ranged from \$52.46 to \$78.05 per square foot of living area. The subject's improvement assessment of \$77.66 per square foot of living area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment 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.



Chairman



Member



Member



Acting 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: _____

May 19, 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.