



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

APPELLANT: Mark Kmiecik
DOCKET NO.: 15-05518.001-R-1
PARCEL NO.: 05-18-423-005

The parties of record before the Property Tax Appeal Board are Mark Kmiecik, the appellant; 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: \$18,280
IMPR.: \$47,070
TOTAL: \$65,350

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 one-story dwelling of masonry exterior construction with 1,115 square feet of living area. The dwelling was constructed in 1957. Features of the home include a full basement with finished area, central air conditioning and a two-car garage with 576 square feet of building area. The property has a 7,263 square foot site and is located in Wheaton, Milton Township, DuPage County.

Mark Kmiecik appeared before the Property Tax Appeal Board contending overvaluation and assessment inequity of land and building as the bases of the appeal. Kmiecik testified that these comparables are overvalued based on their assessments. Kmiecik testified that his land is assessed higher per square foot than his neighbors and his property is located in a flood plain.¹

¹ The appellant did not submit any evidence about being in a flood plain with his original evidence. The appellant at the hearing produced a flood location map and at that time it was explained to the appellant that his map was new evidence and could not be accepted.

Kmiecik testified that his comparable #3 located at 619 South Beverly Street is not in the flood plain or influenced by any flooding and is assessed at \$2.52 per square foot of land area, the same as his property.

In support of these arguments Kmiecik testified that he submitted descriptions and assessment information on three comparable sales located within the same subdivision as his property. The comparables were improved with either a one-story or a two-story single family dwelling that ranged in size from 1,008 to 2,016 square feet of living area. The dwellings were of frame exterior construction and were constructed in 1957. Each comparable has a garage ranging in size from 440 to 672 square feet of building area. Two comparables have a full basement with one comparable having finished area and one comparable has central air conditioning. These properties have sites ranging in size from 7,236 to 10,909 square feet of land area. The comparables sold from May 2012 to November 2013 for prices ranging from \$120,000 to \$251,250 or from \$119.05 to \$148.47 per square foot of living area, including land. These comparables have improvement assessments ranging from \$31,040 to \$74,370 or from \$30.79 to \$36.89 per square foot of living area and land assessments of \$18,220 or \$25,020 or from \$2.29 to \$2.52 per square foot of land area.

The appellant requested that his assessment be reduced.

Under cross-examination, Kmiecik testified that he has had seepage in his basement due to flooding.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$65,350. The subject's assessment reflects a market value of \$196,246 or \$176.01 per square foot of living area, land included, when using the 2015 three-year average median level of assessment for DuPage County of 33.30% as determined by the Illinois Department of Revenue. The subject has an improvement assessment of \$47,070 or \$42.22 per square foot of living area and a land assessment of \$18,280 or \$2.52 per square foot of land area.

Representing the board of review was Chairman Anthony Bonavolanta. Bonavolanta called Milton Township Residential Deputy Assessor Luke Wiesbrock as a witness

The assessor's evidence submitted through the board of review noted that the appellant's comparable #1 is a two-story dwelling; comparable #2 has a frame exterior with an unfinished basement and comparable #3 has a frame exterior with no basement.

In support of its contention of the correct assessment the board of review submitted descriptions and assessment information on five comparable sales located in the same neighborhood code assigned by the township assessor as the subject property. Wiesbrock testified that in regards to the land in the appellant's neighborhood, there was no flood consideration given to those properties. Wiesbrock testified that the land was valued based on the size of the site. Wiesbrock testified that the comparables were improved with one-story single family dwellings that ranged in size from 868 to 1,115 square feet of living area. The dwellings were of masonry exterior construction and were constructed from 1947 to 1961. Features include a basement with finished area, central air conditioning and a garage ranging in size from 352 to 484 square feet of building

area. These properties have sites ranging in size from 7,690 to 13,964 square feet of land area. The comparables sold from July 2013 to September 2014 for prices ranging from \$199,000 to \$237,000 or from \$206.28 to \$247.78 per square foot of living area, including land.

These comparables have improvement assessments ranging from \$38,730 to \$48,500 or from \$40.98 to \$46.27 per square foot of living area and land assessments ranging from \$19,360 to \$28,900 or \$2.07 or \$2.52 per square foot of land area.

The board of review requested the assessment be confirmed.

Under cross examination, Wiesbrock testified that there are some properties assessed at \$1.89 per square foot for their land valuation but they are located near the busier roads so they are given a location adjustment.

Conclusion of Law

The appellant argued in part 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.

The parties submitted eight sale comparables for the Board's consideration. The Board gave little weight to the appellant's comparables along with the board of review comparables #1 and #4. These comparables sold from February 2013 to November 2013, which is less indicative of fair market value as of the subject's January 1, 2015 assessment date.

The Board finds the best evidence of market value to be the board of review's comparable sales #2, #3 and #5. These comparables are similar to the subject in location, land size, age, dwelling size, design and features. These comparables sold for prices ranging from \$199,000 to \$230,000 or from \$157.12 to \$195.06 per square foot of living area, including land. The subject's assessment reflects a market value of \$196,246 or \$176.01 per square foot of living area, including land, which is within the range established by the best comparable sales in this record. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

The taxpayer also argued assessment inequity in the land and building as an alternative basis of the appeal. 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 eight assessment improvement equity comparables for the Board's consideration. The Board gave less weight to the appellant's comparable #1 due to its being a two-story dwelling; appellant's comparable #2 for a lack of finished basement and appellant's comparable #3 for having no basement when compared to the subject property.

The Board finds the best evidence of improvement assessment equity to be the board of review's comparables. These comparables are similar to the subject in location, age, size, design and features. These comparables had improvement assessments that ranged from \$38,730 to \$48,500 or from \$40.98 to \$46.27 per square foot of living area. The subject's improvement assessment of \$47,070 or \$42.22 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 improvement assessment is not justified.

The Board finds the record contains eight land equity comparables submitted by the parties in support of their respective positions. The Board gave less weight to the appellant's comparables #1 and #2 along with the board of review comparable #1 because these sites are considerably larger than the subject's site. The Board finds the most similar comparables are the appellant's comparable #3 along with the board of review comparables #2 through #5. These comparables have sites that range in size from 7,236 to 7,690 square feet of land area and have land assessments of \$2.52 per square foot of land area which is identical to the subject. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land was inequitably assessed.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist based on the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, no reduction in the subject's assessment is 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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) 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



Acting 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: December 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 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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