



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

APPELLANT: Daniel Braun & Roger Sommer
DOCKET NO.: 15-06625.001-R-1
PARCEL NO.: 15-05-230-041

The parties of record before the Property Tax Appeal Board are Daniel Braun & Roger Sommer, the appellants, by Jessica Hill-Magiera, Attorney at Law, in Lake Zurich, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$4,845
IMPR.: \$30,264
TOTAL: \$35,109

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a 2014 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 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 part 1-story and part 1.5-story dwelling¹ of frame construction with 1,462 square feet of living area. The dwelling was constructed in 1930 and remodeled in 2008. Features of the home include a partial basement, central air conditioning and a detached two-car garage. The property has a .31-acre site and is located in McHenry, Nunda Township, McHenry County.

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants submitted information on three comparable sales located within .23 of a mile of the subject. The comparables were improved with one-story dwellings that were built between 1928

¹ The appellants referred to the dwelling as a one-story and the board of review referred to the dwelling as a 1.5-story. A copy of the property record card submitted by the board of review reveals that the dwelling has both a 1-story portion and a 1.5-story portion.

and 1950. The homes range in size from 1,262 to 1,336 square feet of living area. One comparable has a partial basement along with central air conditioning and a fireplace. Two of the homes have garages of 400 and 576 square feet of building area, respectively. The sales occurred between September 2014 and April 2015 for prices ranging from \$42,500 to \$55,000 or from \$33.68 to \$41.17 per square foot of living area, including land. The analysis included Property Equalization Values (adjustments) to the comparables for sale date, land,² age, square footage, basement, fireplaces, air conditioning and/or garages. No evidence or explanation pertaining to the calculation of the adjustment amounts was provided. Based on the Property Equalization Values, the analysis conveys a value estimate for the subject property of \$53,126 or a total assessment of \$17,707. At the bottom of the analysis, data sources were listed as Assessor, County, MLS, Realist and Marshall & Swift.

Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$35,109. The subject's assessment reflects a market value of \$105,464 or \$72.14 per square foot of living area, land included, when using the 2015 three year average median level of assessment for McHenry County of 33.29% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted data prepared by the Nunda Township Assessor's Office. The assessor asserted that the subject home was extensively remodeled in 2008 including new siding and windows, replacing of drywall for walls and ceilings along with the installation of wood floors. Additionally, the assessor asserted that the garage was rebuilt resulting in an effective age of the subject property of 15 years.

Furthermore, as to the comparables presented by the appellants, the assessor contended that comparable #1 has not had any remodeling permits issued; comparable #2 had siding, roof and driveway replaced in 2015; and comparable #3 was dissimilar as it had been gutted and made ready for rehabbing. The assessor further reported that the subject property has three contiguous parcels that were not made part of this appeal.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on two comparable sales #4 and #5 in the spreadsheet. These comparables have parcels of either .25 of an acre or .34 of an acre of land area that has been improved with a one-story and a 1.5-story dwelling, respectively. The home were built in 1928 and 1946 and contain 1,440 and 1,836 square feet of living area. One comparable has a partial basement and central air conditioning. One comparable has a fireplace and a two-car garage. These properties sold in June 2014 and September 2015 for prices of \$94,000 and \$139,000 or for \$51.20 and \$96.53 per square foot of living area, including land. As to comparable #4 the assessor reported no remodeling permits had been issued and as to comparable #5 the siding had been replaced in 2015.

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

² There were no land sizes presented for any of the properties.

In written rebuttal, counsel for the appellants contended that the board of review failed to provide evidence that improvements to the subject property added value and also contended that repairs and maintenance shall not increase the value of the property unless square footage is added citing to Section 10-20 of the Property Tax Code. (35 ILCS 200/10-20)³ Since no square footage was added, counsel contends that the improvement(s) result in no added value. There was also no substantive support for the contention that appellants' comparable #3 had been gutted. As to board of review comparable #4, counsel argued that this 1.5-story dwelling differs from the subject which was asserted to be a one-story home.

Counsel also asserted that appellants' comparables along with board of review comparable #5 were the best comparable sales in the record. 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 is insufficient. Appellants further argued that using a median sale price per square foot "is more accurate and should be standard practice for determining fair market value."

The board of review filed surrebuttal upon receipt of the appellants' rebuttal filing. The board of review noted the subject dwelling's part one-story and part 1.5-story design. Additionally, in order to support the "gutted" condition of appellants' comparable #3, the board of review submitted a photograph and data from the assessor's office.

In response to the surrebuttal filing, counsel for the appellants requested that this latter filing by the board of review be stricken as it was inappropriate new data in further response to the appellants' evidence that was not timely filed.

The appellants' request to strike the surrebuttal was forwarded and no response was filed.

Conclusion of Law

As an initial matter, the Property Tax Appeal Board **grants** the appellants' request to strike the board of review's surrebuttal filing as it reflects inappropriate and untimely responsive evidence to the appellants' evidence. Pursuant to the rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)). In light of these rules, the Property Tax Appeal Board has not considered the documentation submitted by board of review in conjunction with

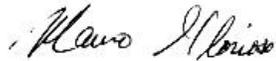
³ "Repairs and maintenance of residential property. Maintenance and repairs to residential property owned and used exclusively for a residential purpose shall not increase the assessed valuation of the property. For purposes of this Section, work shall be deemed repair and maintenance when it (1) does 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."

its surrebuttal filing to support its original assertion that appellants' comparable #3 had been "gutted" in preparation for rehabbing.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted a total of five comparable sales to support their respective positions before the Property Tax Appeal Board. None of the comparables are particularly similar to the subject property. Two of the appellants' comparables along with board of review comparable #4 lack a basement foundation. The Board finds the five comparables in the record submitted by both parties sold between June 2014 and September 2015 for prices ranging from \$42,500 to \$139,000 or from \$33.68 to \$96.53 per square foot of living area, including land. The subject's assessment reflects a market value of \$105,464 or \$72.14 per square foot of living area, including land. After considering adjustments to the comparables when compared to the subject in age, dwelling size, foundation and/or other features, the Board finds 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. 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: February 20, 2018



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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