



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

APPELLANT: Michael Torpy  
DOCKET NO.: 16-01712.001-R-1  
PARCEL NO.: 06-17-154-007

The parties of record before the Property Tax Appeal Board are Michael Torpy, the appellant, 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:** \$23,046  
**IMPR.:** \$69,851  
**TOTAL:** \$92,897

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2016 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 one-story and part two-story dwelling of frame and brick trim exterior construction with 3,510 square feet of living area. The dwelling was constructed in 2005. Features of the home include a partial basement and part crawl-space foundation, central air conditioning, a fireplace and a 540 square foot garage. The property has an 8,875 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on seven comparable sales located from .22 of a mile to 1.57 miles from the subject property. The comparables were described as part one-story and part two-story dwellings ranging in size from 3,429 to 3,656 square feet of living area. The dwellings were constructed in either 2005 or 2006. The comparables each have a full or partial basement, central air conditioning and a garage ranging in size from 524 to 670 square feet of building area. Additionally, five comparables have fireplaces. The appellant did not disclose the comparables'

exterior construction or land size. The comparables sold from January 2015 to January 2016 for prices ranging from \$228,500 to \$292,000 or from \$64.62 to \$81.87 per square foot of living area, including land. Based on this evidence, the appellant's 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 \$97,097. The subject's assessment reflects a market value of \$291,846 or \$83.15 per square foot of living area, land included, when using the 2016 three-year average median level of assessment for Kane County of 33.27% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a memorandum and data prepared by the Elgin Township Assessor. In the memorandum, the assessor critiqued the appellant's comparables disclosing six of the seven comparables were sold as short sales or foreclosures.

In support of its contention of the correct assessment, the board of review submitted information on four comparable sales located from .20 of a mile to 1.45 miles from the subject property. The comparables consist of part one-story and part-two-story dwellings of frame or frame and brick trim exterior construction ranging in size from 3,387 to 3,476 square feet of living area. The dwellings were constructed in 2005. The comparables have basements, three of which have finished area and central air conditioning. Additionally, three comparables have fireplaces and each comparable has a garage ranging in size from 542 to 609 square feet of building area. The comparables have sites containing either 10,000 or 10,625 square feet of land area. The comparables sold from April 2013 to September 2014 for prices ranging from \$302,500 to \$347,000 or from \$87.03 to \$102.45 per square foot of living area, including land.

In written rebuttal, counsel for the appellant submitted a Listing and Property History Report for appellant's comparable #6 that indicates there is no record of the property selling in 2016 for \$440,000 as alleged by the board of review. The appellant's counsel argued that the comparables presented by the assessor/board review sold in 2013 and 2014, which are too remote in time to establish market value as of January 1, 2016. In a rebuttal grid analysis, counsel reiterated the six best comparable sales in the record and contended the subject's assessment should be reduced.

Lastly in rebuttal, counsel argued that an analysis of raw sales prices per square foot "does not take into account the fundamental concept of using a median sale price/SF to determine market value." Counsel further argued that using a median sale price per square foot "is more accurate and should be standard practice for determining fair market value."

### **Conclusion of Law**

The appellant contends 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 met this burden of proof and a reduction in the subject's assessment is warranted.

As an initial matter, the Property Tax Appeal Board gave no weight to the appellant's counsel's argument that the Board should adopt a standard practice of using the median sale price per square foot of living area, including land, of those comparables deemed best in determining fair market value because it is "more accurate." Contrary to this argument, the decision of the Property Tax Appeal Board must be based upon equity and the weight of evidence, not upon a simplistic statistical formula of using the median sale price per square foot of living area, including land, of those comparables determined to be most similar to the subject. (35 ILCS 200/16-185; Chrysler Corp. v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979); Mead v. Board of Review, 143 Ill.App.3d 1088 (2nd Dist. 1986); Ellsworth Grain Co. v. Property Tax Appeal Board, 172 Ill.App.3d 552 (4th Dist. 1988); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989)). Based upon the foregoing legal principles and contrary to the assertion of the appellant's counsel, there is no indication that a "median sale price per square foot" is the fundamental or primary means to determine market value.

The parties submitted 11 comparable sales for the Board's consideration. The Board gave less weight to the appellant's comparable sales #2, #3, #5, #6 and #7 due to their distant locations from the subject property. The Board also gave less weight to the comparable sales submitted by the board of review as their sales in 2013 and 2014 are dated and less likely to reflect the subject's market value as of the January 1, 2016 assessment date.

The Board finds the best evidence of market value to be the appellant's comparable sales #1 and #4. These two comparables are most similar to the subject in location, size, design, age and features. These comparables sold in May and July 2015 for prices of \$240,00 and \$292,000 or \$67.76 and \$77.64 per square foot of living area, including land. The subject's assessment reflects a market value \$291,846 or \$83.15 per square foot of living area, land included, which falls between the best comparable sales in this record on overall price, but is greater than the comparables on a price per square foot basis. After considering adjustments to the comparables for differences when compared to the subject, the Board finds a reduction in the subject's assessment is 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.

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Chairman



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Member

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Member



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Member

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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: June 18, 2019



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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

AGENCY

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