FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Jeff and Chris Kowalkowski
DOCKET NO.: 16-05209.001-R-1
PARCEL NO.: 05-10-405-007

The parties of record before the Property Tax Appeal Board are Jeff and Chris Kowalkowski, the appellants, by appellant/attorney Jeffrey N. Kowalkowski, of Lanphier & Kowalkowski, in Elmhurst, 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:	$28,120
IMPR.:	$60,380
TOTAL:	$88,500

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 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 one-story ranch dwelling of frame construction with 1,270 square feet of living area. The dwelling was constructed in 1955. Features of the home include a partial unfinished basement, a fireplace and an attached 238 square foot garage. The property has a 9,000 square foot site and is located in Glen Ellyn, Milton Township, DuPage County.

Appellant/Attorney, Jeffrey Kowalkowski, appeared before the Property Tax Appeal Board on behalf of both appellants, contending as a matter of law that section 10-20 of the Property Tax Code (35 ILCS 200/10-20) regarding repairs and maintenance of residential property applied to the subject improvement as an "exemption" from increasing the subject's improvement assessment for the 2016 tax year.

At issue in this appeal is the application and interpretation of section 10-20 of the Property Tax Code which provides as follows:

> 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. (35 ILCS 200/10-20).

In support of the appellants' legal argument, the appellants submitted a two-page Memorandum of Law[1] along with a March 16, 1998 18th Judicial Circuit Court Order (Appellants' Exhibit "A-1"), four pages described as a partial transcript internally numbered as pages 16 through 19 (marked as Appellants' Exhibit "A18 – A21"), the statutory language of 'repairs and maintenance of residential property' from the Property Tax Code (35 ILCS 200/10-20) which is set forth above and a 2015 Change of Assessment Notice dated December 2, 2015 issued by the DuPage County Board of Review indicating the reason for the 2015 assessment change was "general reassessment" (see 35 ILCS 200/9-215).

Based upon the Residential Appeal petition and the appellants' Memorandum of Law, the appellants contend that the subject property was purchased in January 1994 for $110,000. The Memorandum of Law further reports that 'substantial repairs and maintenance' were conducted on the property in 1994. The appellants further report that in 1995 the Milton Township Assessor reassessed the subject property to 'its full value.' The appellants appealed both the 1995 and 1996 assessment increases based upon what the appellants termed to be "the Repair and Maintenance Exemption" found in Section 10-20 of the Property Tax Code (35 ILCS 200/10-20) where a 22% reduction in the full value reassessment was sought 'based upon the repair and maintenance exemption.' The appellants also report that these 1995 and 1996 assessment appeals were denied respectively by both the DuPage County Board of Review and the Property Tax Appeal Board.

Next, as set forth in the Memorandum of Law, the appellants filed a lawsuit in DuPage County, Case Number 97 TX 0006, claiming the board of review and the Property Tax Appeal Board erroneously denied the appellants' "Repair and Maintenance Exemption." On March 16, 1998, the circuit court ordered judgment be entered in plaintiffs' favor and overturned the decisions of the DuPage County Board of Review and the Property Tax Appeal Board. The circuit court order

[1] The brief submitted in this proceeding is identical to the brief submitted in the prior year appeal before the Property Tax Appeal Board for Docket No. 15-05881.001-R-1. Furthermore, the brief submitted with this 2016 tax year appeal bears the received stamp of the Property Tax Appeal Board of April 22, 2016; this date stamp clearly relates to the 2015 tax year appeal as the DuPage County Board of Review Final Decision for tax year 2016 establishing jurisdiction over this appeal was not issued until March 15, 2017.

further stated, "the repair and maintenance exemption (35 ILCS 200/10-20) applies to plaintiff's [taxpayers'] property." (Appellants' Exhibit A-1). In the Memorandum of Law, the appellants report that the 1995 assessment of the subject property was subsequently reduced by 22% from the reassessed full value.

For this pending 2016 tax year appeal, the appellants argue the "Repair and Maintenance Exemption" does not contain any time limitation such as the four-year limitation provided for in the Home Improvement Exemption (35 ILCS 200/15-180). The appellants further argue that the "Repair and Maintenance Exemption" is more akin to the Senior Exemption (35 ILCS 200/15-170) or the Homestead Exemption (35 ILCS 200/15-175), neither of which contain time limitations. In equating section 10-20 to both sections 15-170 and 15-175 of the Property Tax Code, the appellants assert as owners of the subject property "they should be entitled to the Repair and Maintenance Exemption for as long as they reside in the property." (Memorandum of Law, page 2) In their brief, the appellants further asserted:

> From 1994 through 2014 the subject property was under assessed by approximately 22% to reflect the Repair and Maintenance Exemption. However, the Milton Township Assessor reassessed the subject property in 2015 to reflect a general reassessment of the subject property; thereby, increasing the assessment on the property to its full value.

(Memorandum of Law, page 2). Based on the foregoing argument and documentary evidence including the 1998 circuit court decision, the appellants in their brief requested an 18% reduction in the assessment of the subject property.[2]

At hearing in this matter, Jeffrey Kowalkowski agreed that the instant appeal was substantially similar to the 2015 appeal that was pursued before the Property Tax Appeal Board as Docket No. 15-05881.001-R-1. There was no timely appeal or request for administrative review concerning the decision issued by the Property Tax Appeal Board in Docket No. 15-05881.001-R-1. As part of the record in Docket No. 15-05881.001-R-1, Attorney Kowalkowski agreed that he drafted the Court Order dated March 16, 1998 in accordance with the Judge's ruling. Also, in the hearing of the 2015 tax year appeal, Attorney Kowalkowski acknowledged that the subject's assessment could increase each year, however, he contended that the assessment should exempt 18% to 20% of the subject's assessment for the 'repairs and maintenance' to the subject property performed in 1995. Also as part of the 2015 tax year appeal, the appellant testified the roof and siding were replaced, electrical repairs were made, and plaster ceilings were repaired in 1994/1995.

At the hearing on this pending 2016 tax year appeal, Kowalkowski asserted he wanted to explore some additional questions about "the statute [section 10-20 of the Property Tax Code]" upon examination of the township assessing official as to whether this was an exemption statute. As to the prior 2015 tax year decision by the Property Tax Appeal Board, Kowalkowski stated that to a certain extent he agreed with the decision that section 10-20 is not an 'exemption' statute; he contended that section 10-20 should be 'taken into account when assessing the property.' In further

[2] In Section 2c of the Residential Appeal petition, the appellants requested no change in the land assessment of the subject property but requested a reduction in the improvement (building) assessment of the subject property from $60,380 to $44,286 which mathematically reflects an assessment reduction request of approximately 26.65%.

expounding at the hearing, Kowalkowski drew the distinction that an exemption statute is one that is applied after the property has been assessed; section 10-20, in his opinion, is a statute that is to be considered when assessing the property. The question that appellant wanted answered was whether section 10-20 was applied/considered by the assessing officials prior to the determination of the assessment of the subject property.

When asked by the hearing officer conducting this 2016 appeal hearing, if the appellant contends that the subject home is in need of repairs or maintenance and/or was not in average condition, Kowalkowski responded that was not his contention. He stated that, while he has a list of 'honey-do' things that have not been completed, the home was not suffering [as of tax year 2016] from any repairs or maintenance but was in average to good condition.

Appellant Kowalkowski called Mary Cunningham, the Milton Township Chief Deputy Assessor, as his witness. The parties stipulated to Cunningham's qualifications. The witness was asked to review the 2015 Change of Assessment Notice dated December 2, 2015; as stated on the document, Cunningham acknowledged that 2015 was a general reassessment year (see 35 ILCS 200/9-215). The subject parcel was reassessed to be reflective of its full market value. For purposes of reassessment, the subject property was reviewed as of January 1, 2015 (see 35 ILCS 200/9-155). Cunningham testified that the assessor applied an average condition to the subject property. Cunningham agreed that the "repair and maintenance" referred to in Judge Darrah's Order dated March 16, 1998 was not taken into consideration in determining the condition and valuation of the subject property as of January 1, 2015, given the passage of more than fifteen years since the Order was issued. At the time of the 2015 reassessment cycle, the township revalued approximately 39,000 residential parcels; the subject property was revalued with properties in the subject's neighborhood in average condition at one-third of its full cash value. For tax year 2016 the only change in the subject's assessment was application of the neighborhood increase applied to all 2015 assessments in Milton Township of 4.82%.

In further expounding on the application of section 10-20 of the Property Tax Code, Kowalkowski testified that an assessment reduction had been granted to the appellants in 1994 based on the purchase and "the problems" with the house. After having been granted this reduction in the first year, the assessment for 1995 increased by some 30%. As a consequence of the appellants' circuit court litigation, Judge Darrah opined, according to the appellant, that repairs and maintenance [that had been performed] should not have been taken into account and reduced the subject's assessment by about 18%. The appellant argued further that there is no time limit in section 10-20 of the Property Tax Code concerning repairs and maintenance.

The appellant contended that the issue presented is whether 20 to 25 year old "maintenance and repairs" continue with the property as long as the appellants own the property. While the length of the ruling was reportedly asked of Judge Darrah at the time, the judge contended the issue was not before him and would be up to someone else to decide.[3] From the appellants' observation, the

[3] The apparent start of this exchange with Judge Darrah appears on Appellants' Exhibit A-21, but abruptly stops before it is concluded in the portion of the transcript filed in this appeal. The Property Tax Appeal Board takes judicial notice of its decision issued in Docket No. 15-05881.001-R-1. (86 Ill.Admin.Code §1910.90(i)) In that 2015 tax year appeal, the appellant was ordered by hearing officer Edwin Boggess to produce the full transcript of the Court Order of 1998. At that time, the appellant responded that he was unable to produce the full transcript. The Property Tax Appeal Board

assessment of the subject property has remained low until the 2015 general reassessment cycle. In concluding his case-in-chief, Kowalkowski said, "I'll agree it doesn't seem fair to keep an assessment lower than the fair market value for so long, but I think that's the purpose of the statute to encourage people to buy houses that are in a poor, dilapidated condition and fix them up which is what I did." He therefore argued that he was entitled to an 'exemption.' He then corrected himself and said "not an exemption" but to an assessment that takes into account the repairs and maintenance that he did many years ago.

Upon questioning by the hearing officer whether any repairs or maintenance were performed in 2016, Kowalkowski responded that there was some painting of the trim on the house that was performed within the last three years although he could not recall exactly in which calendar year the work was done. Kowalkowski also acknowledged that real property valuation for taxation purposes in Illinois is performed on an *ad valorem* or based upon value basis. When asked by the hearing officer, Kowalkowski indicated that he would not sell his property for less than $265,800; he agreed that the current assessment was reflective of fair cash value and noted the appeal was not based on such a challenge. Upon cross-examination of Appellant/Attorney Kowalkowski by the board of review representative, the appellant was asked if the subject property suffered from any structural deficiencies as of tax year 2016; he responded that there were none.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $88,500. The subject property has an improvement assessment of $60,380 or $47.54 per square foot of living area. The subject's assessment reflects a market value of $265,846 or $209.33 per square foot of living area, land included, when using the 2016 three-year average median level of assessment for DuPage County of 33.29% as determined by the Illinois Department of Revenue. At hearing, the board of review was represented by Chairman Charles Van Slyke.

In support of its contention of the correct assessment, the board of review submitted information gathered by the Milton Township Assessor's Office consisting of data on five comparable properties with both recent sales and assessment equity information. The comparables were located within the same neighborhood code assigned by the assessor as the subject property. A map included in the evidence depicts the location of the subject and each of the comparable properties. The comparable parcels range in size from 7,953 to 12,240 square feet of land area and each has been improved with a one-story frame dwelling. The homes range in size from 1,223 to 1,442 square feet of living area and were built from 1952 to 1957. Features of the homes include full or partial basements, four of which have finished areas, central air conditioning and a one-car or a two-car garage. Three of the comparables each have one or two fireplaces. The comparables sold between May 2014 and December 2015 for prices ranging from $265,000 to $428,000 or from $216.68 to $296.81 per square foot of living area, including land. The comparables have improvement assessments ranging from $66,820 to $92,940 or from $54.64 to $68.11 per square foot of living area and total assessments ranging from $93,630 to $131,450.

The board of review called Mary Cunningham, the Milton Township Chief Deputy Assessor, as its witness. Ms. Cunningham testified that the subject property was reassessed in 2015 based on

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further found in the 2015 tax year appeal that missing from the partial transcript contained in the record was any indication of the length of application of the circuit court's Order.

a mass appraisal method and the assessment of the subject property represents 1/3 of the subject's fair market value. Cunningham opined that the subject was fairly assessed. She also testified that exemptions are applied after determining fair market value; the only exemption applied to the subject property was the homestead exemption. When asked if there was any credit/debit applied for the 1994/1995 repairs and maintenance to the subject property, Cunningham testified that "yes" it was an exemption "that was not granted by the assessor's office and it was after the assessor's office put the fair market value on the home."

On cross-examination, Cunningham testified that the only exemption that the assessor's office grants to a property is the homestead exemption. As to whether any previous repairs or maintenance of the subject property was considered, Cunningham testified that the subject property was determined to be in average condition and was considered to be uniform with all the other homes in the neighborhood. When asked about her direct testimony set forth above that "an exemption was not granted for the 1994/1995 repairs and maintenance of the subject property," Cunningham reiterated that the only exemption the assessor's office applies to a property is the homestead exemption. When asked directly if any exemption was denied to the subject property for 2016, Cunningham testified that no exemption was denied by the Milton Township Assessor's Office.

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

Conclusion of Law

The appellants contend as a matter of law that by applying and interpreting Section 10-20 of the Property Tax Code (35 ILCS 200/10-20) in the manner urged by the appellants would result in a reduction in the 2016 improvement assessment of the subject property. The appellants assert that a reduction in the improvement assessment for tax year 2016 is warranted based upon repairs and maintenance which the appellants performed on the subject property in 1994/1995. Besides their own interpretation of section 10-20 of the Property Tax Code, the only support for this argument is the issuance of a circuit court ruling dated March 16, 1998. Section 10-15 of the Illinois Administrative Procedure Act (5-ILCS 100/10-15) provides:

> Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63.

To the extent that the appellants at hearing sought to re-litigate the 2015 general reassessment of the subject property as elicited in testimony at hearing, the Property Tax Appeal Board finds that those issues are untimely for purposes of this 2016 tax year appeal and further finds that any such issues related to the 2015 general reassessment of the subject parcel were addressed in Docket No. 15-05881.001-R-1. Furthermore, the appellants did not pursue available administrative review remedies upon issuance of the Final Administrative Decision of the Property Tax Appeal Board dated November 20, 2018 in Docket No. 15-05881.001-R-1. (See 35 ILCS 200/16-195)

Therefore, both principles of *res judicata* and lack of jurisdiction prohibit raising issues related to the 2015 general reassessment cycle in this pending 2016 tax year appeal.

As to the contention of law raised in this appeal by the appellants, the Property Tax Appeal Board finds that the division and organization of the Property Tax Code itself defeats the appellants' contention that they were entitled to an 'exemption' on a permanent basis for 1994/1995 repairs and maintenance made to the subject property. (35 ILCS 200/1-1 et seq.) The Property Tax Code consists of nine specific titles. Within the various titles, the Property Tax Code includes specific Articles. The Board finds that section 10-20 concerning maintenance and repairs to residential properties is found under Title 3 – Valuation and Assessment and within Title 3 is Article 10 – Valuation Procedures For Special Properties and within Article 10 at Division 2 – Residential Property is the provision known as section 10-20.

The Board further finds the specific location of the repairs and maintenance provision of section 10-20 within the Property Tax Code is distinctly different from the location of the "exemption" provisions of the Property Tax Code. Examination of the Property Tax Code reveals that Title 4 – Exemptions consists only of Article 15 – Exemptions which includes numerous provisions. More specifically and as cited within the appellants' Memorandum of Law, it is within Article 15 that the Home Improvement Exemption (35 ILCS 200/15-180), the Senior Exemption (35 ILCS 200/15-170) and the Homestead Exemption (35 ILCS 200/15-175) are found. Nothing within Article 15 on Exemptions refers to the 'repairs and maintenance of residential property' which is found at section 10-20 of Title 3, Article 10, Division 2 of the Property Tax Code. Therefore, the Property Tax Appeal Board finds that section 10-20 of the Property Tax Code is not an 'exemption' as used within the provisions of valuing and assessing real property in Illinois.

Article IX, Section 4(a) of the Illinois Constitution states in relevant part:

> (a) Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law. (Ill.Const.Art.IX §4)

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).

Section 9-145 of the Property Tax Code states in part:

> Statutory level of assessment. Except in counties with more than 200,000 inhabitants which classify property for purposes of taxation, property shall be valued as follows:
>
> (a) Each tract or lot of property shall be valued at 33 1/3% of its fair cash value. (35 ILCS 200/9-145)

. . .

Section 1-50 of the Property Tax Code states:

> Fair cash value. The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50)

As noted previously, the appellants pursued an appeal for tax year 2015 before the Property Tax Appeal Board. A Final Administrative Decision was issued in that proceeding which was not challenged upon administrative review as provided by law. It is further noteworthy that 2015 was a general reassessment year in DuPage County (35 ILCS 200/1-65). As such, the subject parcel along with all the other parcels were to be reviewed (35 ILCS 200/9-215) for that tax year as provided in section 9-155 of the Property Tax Code in that "the assessor, in person or by deputy, shall actually view and determine as near as practicable the value of each property listed for taxation as of January 1 of that year, or as provided in Section 9-180, and assess the property at 33 1/3% of its fair cash value . . .". (35 ILCS 200/9-155)

There was no dispute by the parties to this appeal that the subject property's assessment reflects the subject's fair market value. Furthermore, the subject's assessment was equitable according to the township assessor. The record further reveals that the only change made to the subject's 2016 assessment was the application of the Milton Township equalization factor of 4.82% that was applied to all parcels within the township. As to the section 10-20 'repair and maintenance' provision of the Property Tax Code, the Property Tax Appeal Board finds the record lacks any evidence establishing the subject property had any 'repairs and maintenance' immediately prior to or in tax year 2016. The appellant testified herein that in 2016 the subject was not structurally deficient nor was the property in need of repairs and/or maintenance. The appellant in hearing conceded that the subject's 2016 assessment correctly reflects the property's full market value. The sole contention by the appellants is that the subject property is entitled to receive a 'credit' of approximately 18% to account for repairs and maintenance performed on the subject dwelling in 1994/1995. The evidence herein consists of a partial transcript from a 1998 circuit court hearing that lead to the Order (Appellants' Exhibit A-1) which called for application of a 'repair and maintenance exemption' for 1995/1996, but lacks any language which might have explained how long the 'exemption' was to be applied. The appellants argued the exemption applies for as long as they reside in the subject dwelling as their primary residence.

On this limited record, the Board finds the 1998 circuit court Order applies solely to the 'repair and maintenance exemption' as to the subject's 1995/1996 real estate taxes but was silent regarding any future/subsequent tax years. The Property Tax Appeal Board further finds that section 10-20 of the Property Tax Code (35 ILCS 200/10-20) states in part, "[m]aintenance and repairs to residential property owned and used exclusively for a residential purpose shall not increase the assessed valuation of the property."

The sole published court opinion addressing a predecessor version of section 10-20 of the Property Tax Code is Hall v. Property Tax Appeal Board, 98 Ill.App.3d 824 (3rd Dist. 1981). For purposes of the Hall decision, the relevant statutory provision provided in pertinent part as follows:

> In counties containing less than 3,000,000 inhabitants, maintenance and repairs to residential real estate in an amount not to exceed $7,500 in any 10 year period shall not increase the assessed valuation of such real property. . . .

The remainder of the statutory provision at issue was substantially identical to the stated purpose/definition set forth in the current version of section 10-20, but for a concluding sentence that "This Section shall not be construed to require an assessment increase in any case in which such increase would not have been required prior to the effective date of this amendatory Act of 1977." (Citing Ill.Rev.Stat. 1977, ch. 120, par. 501h-1)

In addressing the question of law placed before the Appellate Court in Hall concerning the statutory provision on 'maintenance and repairs,' the Court found the statutory meaning of the terms within the provision were that the work must not "increase the square footage of improvements" and "employs materials . . . whose value is not greater than the replacement value of any materials being replaced by such materials." Hall at 828 citing to Ill.Rev.Stat. 1977, ch. 120, par. 501h-1. The Appellate Court further found that "the burden is on the person claiming the exemption to prove clearly and conclusively that he is entitled to one." (Id. at 828, citing People ex rel. County Collector v. Hopedale Medical Foundation (1970), 46 Ill.2d 450). On this record, the Board finds that the appellants have not addressed in any manner the replacement value of the materials that were employed in 1994/1995 and how those materials compared to the materials that were being replaced. The 2015 tax year decision issued by the Property Tax Appeal Board briefly described at page 3 that the 1994/1995 work involved "the roof and siding were replaced, electrical repairs were made, and the plaster ceilings were repaired." Jeff & Chris Kowalkowski, Docket No. 15-05881.001-R-1 (November 20, 2018).

In the Hall case, the court further discussed the evidence in the record that the plaintiff did not contest the fair market value assigned to the property based upon its assessed valuation. Instead, the plaintiff provided by stipulation an estimate of the collective cost of the improvements and repairs which reportedly increased the home's fair market value by an amount greater than the cost of the work performed. Where, in the Hall case, there were both home improvements and work that was deemed to be 'maintenance and repairs,' the Appellate Court noted that the plaintiff failed to establish that the work constituted maintenance and repair under the statute; the record also lacked any indication of the square footage or the replacement value criteria. In summary, the Court found that it would be conjecture to conclude that the plaintiff's repairs may have fallen within the purview of the statute. Hall at 828-829.

The Property Tax Appeal Board finds, based upon the above cited case, that the appellants in this matter must likewise provide clear and conclusive proof that the subject's 2016 assessment was increased based on repairs and maintenance which the appellants reported were made back in 1994/1995. The Board finds that the record establishes the subject's 2016 assessment was increased only due to the Milton Township equalization factor applied to all properties within the jurisdiction. As such, the Board finds that the appellants' claim of entitlement to a 'repairs and maintenance exemption' is without merit on this record.

Furthermore, the Board reiterates that exemptions in the Property Tax Code are found in Article 15, sections 15-5 thru 15-185 (35 ILCS 200/15-5 through 15-185). The provision at issue in this appeal, section 10-20 of the Property Tax Code, is found in Article 10, Division 2 concerning

Residential Property. Therefore, the Board finds that it is clear that section 10-20 is not an 'exemption' as has been argued by the appellants and the Board furthermore does not find any merit to this contention, despite the mis-application of the term 'exemption' as used in Hall. (Id. at 829). The Property Tax Appeal Board concludes, as it did in the 2015 tax year appeal with the same argument, that section 10-20 is a provision which prohibits an assessing official from increasing a residence's assessed value for merely maintaining the property to a standard state of repair.

To the extent that the appellants in any manner argue unequal treatment in the assessment process and/or overvaluation because the subject property should have received an exemption/credit for repairs and maintenance performed in 1994/1995. The rules of the Property Tax Appeal Board provide that 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). 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 either burden of proof and a reduction in the subject's assessment is not warranted for either a purported lack of assessment equity or for overvaluation.

The only evidence concerning the subject's 2016 assessment was presented through the township assessor's testimony that an equalization factor was applied to all properties within the jurisdiction. Therefore, the appellants failed to provide evidence establishing that the 2016 assessment increase applied to the subject property was greater than similar neighborhood properties; instead, the evidence indicates that all area properties were similarly treated with the applicable equalization factor.

The board of review submitted five comparables with features generally similar to the subject. The comparables had improvement assessments ranging from $54.64 to $68.11 per square foot of living area. The subject’s improvement assessment was depicted as $47.54 per square foot of living area, which is below the range of the comparables in the record on a per-square-foot basis. Although the comparables presented by the board of review 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 on the basis of the evidence presented. The Board finds nothing in this record indicates the subject’s assessment is inequitable when compared to similar dwellings.

As to market value evidence, while the appellant at hearing conceded that the subject's assessment appropriately reflected its fair cash value, the Board will briefly address the comparable sales evidence contained in this record. The only evidence of market in the record are the comparable sales provided by the board of review. The comparables sold between May 2014 and December 2015 for prices ranging from $265,000 to $428,000 or from $216.68 to $296.81 per square foot of living area, including land. The subject's assessment reflects a market value of $265,846 or $209.33 per square foot of living area, including land, which is at the low-end of the range in terms of overall value and below the range on a square-foot basis. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified on grounds of overvaluation.

In conclusion, based on this record, the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed nor did they establish by a preponderance of the evidence that the subject's assessment was increased based on repair and maintenance that occurred in 1994/1995. Finally, a reduction in the subject's assessment is not justified on the contention of law argument presented by the appellants.

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:

C E R T I F I C A T I O N

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: September 17, 2019

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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