



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

APPELLANT: Wiera Sulczewski
DOCKET NO.: 16-05241.001-R-1
PARCEL NO.: 03-23-303-013

The parties of record before the Property Tax Appeal Board are Wiera Sulczewski, the appellant, by attorney Scott Shudnow, of Shudnow & Shudnow, Ltd. 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 A Reduction 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: \$23,480
IMPR.: \$37,860
TOTAL: \$61,340

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a 2015 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 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 dwelling of brick exterior construction with 1,641 square feet of living area. The dwelling was constructed in 1959. Features of the home include a full basement and a 998-square foot detached garage. The property has a 20,300-square foot site and is located in Bensenville, Addison Township, DuPage County.

The subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 15-06683.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the total assessment of the subject property to \$56,660 based on the evidence submitted by the parties. The appellant based this appeal on a contention of law and asserted that the subject property is owner occupied such that, in accordance with Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the 2015 assessment determination of the Property Tax Appeal Board should be carried forward

to tax year 2016 as both 2015 and 2016 are in the same general assessment cycle in DuPage County. (See 35 ILCS 200/9-215).

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$56,660.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the combined total assessment for the subject of \$74,880. The subject's assessment reflects a market value of \$224,932 or \$137.07 per square foot of living area, when applying DuPage County's 2016 three-year average median level of assessment of 33.29% as determined by the Illinois Department of Revenue. 86 Ill.Admin.Code §1910.50(c)(1). The board of review submission indicates that a township equalization factor of 1.0825 was applied in 2016.

In response to the appeal, the assessor attached a copy of the 2015 PTAB Stipulation dated January 18, 2017. The reason/evidence to support the stipulation states "based on sale price one year only due to improvements currently underway." Therefore, the board of review asserts the subject is currently being fairly assessed.

Furthermore, the board of review submitted a recent photograph of the subject property submitted by the Addison Township Assessor. The assessor contends that improvements have been made to the subject, namely "new windows, gutter and driveway can be seen from street." The assessor further contends that a new three-car garage has been added after purchase of the subject property.

The assessor's submission includes a grid analysis and property record cards of six comparables sales located in the same neighborhood code as the subject property. The comparables are improved with one-story dwellings that were constructed from 1953 to 1969. The comparables had features with varying degrees of similarity when compared to the subject. The dwellings range in size from 1,380 to 1,744 square feet of living area. The comparables sold from September 2014 to August 2016 for prices ranging from \$215,000 to \$271,500 or from \$143.52 to \$194.20 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The subject property was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number Docket Number 15-06683.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$56,660 based on the evidence submitted by the parties.

As to the new windows, gutters and driveway cited by the assessor in response to this appeal, the Property Tax Appeal Board takes judicial notice of Section 10-20 of the Property Tax Code (Code) (35 ILCS 200/10-20) which provides:

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.

Therefore, the Board finds this statute provides that maintenance and repairs to a structure shall not increase the assessed valuation unless the change increases the square footage, materially alters the character and condition of the structure, goes beyond merely prolonging the life of the existing structure or used materials that were greater in value than the replacement value of the materials being replaced. Based on the limited submission by the assessing officials in this matter, the Board finds that there is no evidence that the windows, gutters and driveway were anything other than repairs or maintenance of the existing structure.

Furthermore, while the assessing official reports an additional new (presumably assessable) structure has been erected on the subject property such as a three-car garage, the assessing official provided no data of the assessed value of the new improvement. (See 35 ILCS 200/9-160 and/or 9-180) Section 9-160 of the code provides in pertinent part:

. . . the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. . . . [Emphasis added.]

Alternatively, Section 9-180 of the code provides in pertinent part:

Pro-rata valuations; improvements or removal of improvements. The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. . . .

While the assessing official contends that there were new improvements to the subject property consisting of a three-car garage, the assessing official has failed to provide the value in their opinion of the added improvement. Therefore, the Property Tax Appeal Board lacks the

necessary evidence to consider adjusting the assessment of the subject property in light of either Section 9-160 or 9-180 of the Code.

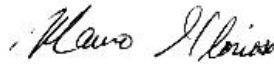
The appellant in this appeal has relied upon Section 16-185 of the Code (35 ILCS 200/16-185) which provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

The board of review did not dispute that the subject property is an owner occupied dwelling. The Board finds on this record that the prior year's decision should be carried forward to the subsequent year pursuant to section 16-185 of the Code (35 ILCS 200/16-185) and the fact that 2015 and 2016 are within the same general assessment period in DuPage County. The record contains no evidence indicating that the assessment year in question is in a different general assessment period. The record also contains no evidence indicating that the subject property sold subsequent to the 2016 tax year determination in an arm's length transaction.

For these reasons and due to the provisions of Section 16-185 of the Code, the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the assessment as established in the prior year's decision plus the application of the township factor of 1.0825.

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: _____

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: July 17, 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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