



## FINAL ADMINISTRATIVE DECISION ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Michael & Bridget Kennedy

DOCKET NO.: 16-40596.001-R-1

PARCEL NO.: 04-13-118-023-0000

The parties of record before the Property Tax Appeal Board are Michael & Bridget Kennedy, the appellant(s); and the Cook 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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 26,400  
**IMPR.:** \$ 35,728  
**TOTAL:** \$ 62,128

Subject only to the State multiplier as applicable.

### **Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Cook 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 (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

### **Findings of Fact**

The subject consists of a two-story dwelling of masonry construction with 2,824 square feet of living area. The dwelling is 61 years old. Features of the home include a full unfinished basement, central air conditioning, two fireplaces, and a one and one-half-car garage. The property has a 26,400 square foot site, and is located in Northfield, Northfield Township, Cook County. The subject is classified as a class 2-78 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$620,000 as of January 1, 2016. The appraisal states that the subject is owner occupied. In the sales comparison approach to value in the appraisal, the appraiser utilized four sale comparables, and one sale listing. The sale comparables sold from September 2015 to August 2016 for \$555,000

to \$\$665,000, or \$213.84 to \$266.00 per square foot of living area, including land. The sale listing was listed for \$625,000, or \$256.99 per square foot of living area, including land. The appraisal states that “[t]he subject property is located in a flood zone, backing up to the Chicago River. The owner of the subject property has been subject to extra costs for flood insurance, the installation of drainage systems, and tree removal. This is a disadvantage in the market & a prudent buyer would pay a lower price for the subject.” As such, all five comparables in the sales comparison approach were adjusted downward for external obsolescence, as they are not located in a flood zone. Moreover, all five comparables are located in the Village of Northfield, and are within two miles of the subject.

The appellant's petition also states that the subject was purchased on February 7, 2013 for \$475,000. The appraisal also states that the subject was purchased on February 7, 2013 for \$475,000, and that the appraiser verified this sale by reviewing the MLS, reviewing the deed filed with the Cook County Recorder of Deeds, and through a conversation with the appellants. No evidence, such as a settlement statement, deed, or sale contract, were included in the appellant's evidence to show the details of the transaction. The appellant requested that the subject's assessment be reduced to 10.00% of the appraisal's estimate of market value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$68,884. The subject's assessment reflects a market value of \$688,840, or \$243.92 per square foot of living area, including land, when applying the 2016 statutory level of assessment for class 2 property of 10.00% under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted information on four equity comparables and four sale comparables. These comparables sold between February 2013 and December 2015 for \$724,000 to \$1,126,342, or \$274.23 to \$316.39 per square foot of living area, including land. The board of review's evidence also states that the subject was purchased in February 2013 for \$475,000.

In written rebuttal, the appellant argued that the board of review's comparables are not similar to the subject for various reasons. Notably, the appellant states that none of the board of review's comparables are located within a flood zone, and that comparables #2, #3, and #4 are not located in the Village of Northfield. The appellant also submitted two black-and-white printouts of maps from the Federal Emergency Management Agency ("FEMA") website, depicting the subject's location and the boundaries of the flood zone. These maps show that the flood zone encompasses almost the entirety of the subject property's backyard, as well as the northeast portion of the subject's improvement.

At hearing, the appellant reaffirmed the evidence previously submitted. The board of review analyst objected to the appellant's appraisal, as the appraiser: was not present; did not testify; and was unavailable for cross-examination. Therefore, it was argued, the appraisal should be dismissed as hearsay evidence. The Board sustained the objection on hearsay grounds, but allowed the appellant to make argument regarding the raw sales data submitted in the sales comparison approach of the appraisal. The analyst then reaffirmed the evidence previously submitted.

During oral rebuttal, the appellant argued that the board of review's comparables were not similar to the subject for various reasons. Upon questioning from the board of review, the appellant stated that the descriptions of the board of review's comparables found in the rebuttal submission were from those comparables' sale listings as shown on redfin.com in August or September of 2018. The board of review analyst noted that several of the descriptions of the comparables' improvements as depicted in the appellant's rebuttal submission were different than the descriptions found on the board of review's grid sheet. The appellant also submitted color copies of the FEMA maps that were previously submitted. Upon questioning from the Board, the appellant stated that the subject's backyard last flooded in the first half of 2019, and that the subject's improvement last flooded in 2014, when water flooded the basement.

### **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 did meet this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the adjustments to the comparables in the sales comparison approach to value and the corresponding final conclusion of value for the subject found in the appraisal submitted by the appellant to be hearsay. At hearing, the board of review analyst argued that the appraisal was hearsay evidence because the appraiser was not available to testify. The Board finds this to be the case. For proceedings before the Board, "[t]he procedure, to the extent that the Board considers practicable, shall eliminate formal rules of pleading, practice and evidence, . . ." 35 ILCS 200/16-180. However, in Novicki v. Department of Finance, 373 Ill. 342 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. Thus, while the Board's rules allow for informal rules of evidence, the Board cannot abrogate a basic rule of evidence under the Supreme Court's holding in Novicki. Therefore, the Board finds that the appraisal is hearsay evidence for which no exception exists, and that the adjustments and conclusions of value found in the appraisal shall not be considered as relevant evidence in this appeal. However, the Board will analyze the raw sales data submitted by the parties, including the sales data included in the sales comparison approach of the appraisal.

The Board finds the best evidence of market value to be appellant's comparables #1, #2, and #3 found in the sales comparison approach in the appraisal. These comparables sold for prices ranging from \$213.84 to \$234.03 per square foot of living area, including land. The subject's assessment reflects a market value of \$243.92 per square foot of living area, including land, which is above the range established by the best comparables in this record. Based on this record, the Board finds that the appellant has proven, by a preponderance of the evidence, that the subject is overvalued, and 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: \_\_\_\_\_

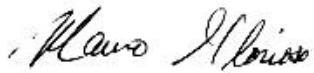
C E R T I F I C A T I O N

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

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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

State of Illinois  
Property Tax Appeal Board  
William G. Stratton Building, Room 402  
401 South Spring Street  
Springfield, IL 62706-4001

APPELLANT

Michael & Bridget Kennedy  
1985 Valley View Rd  
Northfield, IL 60093

COUNTY

Cook County Board of Review  
County Building, Room 601  
118 North Clark Street  
Chicago, IL 60602