



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

APPELLANT: Sharon Krengel
DOCKET NO.: 17-03350.001-R-1
PARCEL NO.: 16-20-100-022

Appearing before the Property Tax Appeal Board (PTAB) via a virtual hearing on behalf of Sharon Krengel, the appellant, was attorney G. Terence Nader of Schoenberg Finkel Beederman Bell Glazer LLC in Chicago. Appearing on behalf of the Lake County Board of Review were Lake County Assistant State's Attorney Gunnar Gunnarsson and Jack Perry.

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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$205,144
IMPR.: \$328,824
TOTAL: \$533,968

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Lake County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2017 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 4.27-acre site improved with a two-story dwelling of brick, frame and stone exterior construction built in 2001 containing 5,405 square feet of living area. Features of the home include a basement that is 90% finished, central air conditioning, three fireplaces and an attached four-car garage with 1,352 square feet of building area. Other features of the property include an inground swimming pool, a 162 square foot bath house, and an 864 square foot barn. The property is in Bannockburn, West Deerfield Township, Lake County.

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 \$1,425,000 as of January 1, 2017, which was marked as Appellant's Exhibit #1. The appraisal was prepared by Michael J. Sullivan, an Illinois Certified General Real Estate Appraiser. In

estimating the market value of the subject property, the appraiser developed the cost approach to value and the sales comparison approach to value. Michael Sullivan was called as a witness on behalf of the appellant.

Sullivan testified that he is licensed by the State of Illinois as an appraiser and has been an appraiser for approximately 41 years. The witness also holds the SRA designation through Appraisal Institute.

The appraiser inspected and photographed the subject property. The appraiser described the subject's area as a low-density neighborhood and had only 13 sales in the community with 3 being REO (real estate owned) from 2015 to January 1, 2017. Due to the lack of sales, the appraiser was forced to use sales that occurred after the January 1, 2017, lien date.

Under the cost approach the approach to value the appraiser first estimated the subject's land value to be \$550,000. The appraiser referenced land sales located at 1885 Hilltop Lane, Bannockburn, consisting of 5.86 acres that sold in August 2017 for a price of \$575,000, and a property located at 2560 Telegraph Road, Bannockburn, consisting of 3.3 acres that sold in July 2016 for a price of \$545,000.

The appraiser estimated the cost new of the improvements using the Marshall and Swift Cost Manual to arrive at a total cost new of \$1,106,255. Using an effective age of 10 years and an estimated economic life to 70 years the appraiser estimated physical depreciation to be \$158,036 which was deducted to arrive at a depreciated improvement value of \$948,219. The appraiser then added the "as-is" value of the site improvements including the swimming pool and landscaping of \$125,000 and the land value of \$550,000 to the depreciated improvement value to arrive at an estimated value under the cost approach to value of \$1,623,200.

The appraiser identified four comparable sales in the sales comparison approach to value. The appraiser described the comparables as being improved with Colonial, Contemporary, or Colonial and Cape Cod style dwellings of stone and frame, brick and frame, or brick exterior construction that range in size from 4,223 to 6410 square feet of living area. The homes were built from 1968 to 1999. Each comparable has a basement with three having finished area, central air conditioning, one to three fireplaces and a two-car or a three-car garage. Comparable #3 also has a swimming pool and a bath house. Comparable #4 also has a horse barn and a swimming pool. The comparables have sites ranging in size from 1.84 to 4.87 acres and are located from approximately .20 to .66 of one mile from the subject property. The sales occurred from September 2015 to August 2017 for prices ranging from \$925,000 to \$1,485,000 or from \$202.50 to \$258.76 per square foot of living area, including land. The appraiser adjusted the comparables for differences from the subject property to arrive at adjusted prices ranging from \$1,360,000 to \$1,444,500. The appraiser identified comparable #3 as the most similar to the subject in appeal, age and site appeal. He also stated that comparable #1 was given least weight and sale #4 provides additional support. The witness testified that comparable #4, which occurred in September 2015, demonstrated the market was stable to 2017 and an oversupply was evident. The indicated value by the sales comparison approach was \$1,425,000.

In reconciling the two approaches to value the appraiser stated in the report that the sales comparison approach was the most reliable based on the quantity of data used and being more

responsive to changes in recent market conditions. The appraiser arrived at an estimated market value of \$1,425,000 as of January 1, 2017.

Under cross-examination the appraiser again testified that the market was stable from 2015 to 2017, the market was not going down. With respect to the adjustments, the appraiser indicated that differences in size were adjusted at \$80 per square foot and features were adjusted using a paired sales analysis. (The appraiser had explained under direct-examination land was adjusted using \$80,000 per acre based on land sales identified in the cost approach.) The appraiser further commented on the fact he did not use board of review comparable sale #1 due to its location being near Deerfield. The appellant's appraiser was also familiar with board of review sale #2 but did not use this sale because it is located on a unique street with similar homes which differs from the subject's more rural location.

Under redirect examination the appraiser testified board of review comparable #4 is located in a PUD (Planned Unit Development) community of homes where they have smaller lots and surrounded by open land, which is a different location.

The appellant requested the subject's assessment be reduced to \$474,953 to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$533,968. The subject's assessment reflects a market value of \$1,610,763 or \$298.01 per square foot of living area, land included, when using the 2017 three-year average median level of assessment for Lake County of 33.15% as determined by the Illinois Department of Revenue. The board of review disclosed that 2015 was the first year of the four-year general assessment cycle for the subject property and that a township equalization factor of 1.0393 was applied in the 2017 tax year.

Mr. Gunnarsson called Jack Lee Perry II as a witness on behalf of the board of review. Perry has been employed as a mass appraisal specialist by the Chief County Assessment Office of Lake County for two years. Prior to this employment he worked for Perry Appraisal Services for approximately four years as an appraiser. Perry received his appraisal license from the State of Illinois in 2015. He appraised mostly residential property and prepared approximately 300 appraisals per year. With the Chief County Assessment Office, he has reviewed upward of 2,000 cases.

To support the assessment the board of review submitted information on four comparable sales improved with part 1.5 and part 1-story, 1.75-story, or 2-story dwellings of wood siding or brick exterior construction that range in size from 5,006 to 5,457 square feet of living area. The dwellings were built from 1998 to 2004. The comparables are located from approximately .55 to 1.10 miles from the subject property with sites ranging in size from 22,830 to 85,378 square feet of land area. Each comparable has a basement with one having finished area, central air conditioning, one to three fireplaces, and a garage ranging in size from 817 to 1,159 square feet of building area. The sales occurred from February 2015 to November 2017 for prices ranging from \$1,285,000 to \$1,562,000 or from \$256.69 to \$287.13 per square foot of living area,

including land.¹ Perry testified he verified the sales and determined they were arm's length transactions. Perry testified that board of review sale #3 is located in Deerfield whereas the subject property is located in Bannockburn, a more rural setting with larger sites. Comparable sale #4 is located in Lake Forest, which is inferior to Bannockburn and in a different market segment. Perry was of the opinion the board of review sales, when adjusted for land size do support the assessment. The grid analysis presented on behalf of the board of review was marked as Board of Review Exhibit #1.

Under cross-examination Perry agreed that each of the comparables sales presented by the board of review sold for a lower overall price and a lower price on a per square foot basis than the market value reflected by the subject's assessment. He also agreed that the grid analysis contained no adjustments to the comparables and agreed that comparables #3 and #4 are not located in Bannockburn. Perry further testified that the grid analysis prepared by the board of review disclosed the subject lot size to be 160,301 square feet (3.68 acres) and he believed that to be the correct size of the subject's site. However, he also indicated that square footage equates to approximately 4.27 acres, which is the size reflected on the subject's property record card. He also agreed that the market in the Bannockburn area was stable from 2015 to 2017. The witness did not inspect the subject property and did not select the comparables used by the board of review. He also agreed that he would have used the comparables selected by the appellant's appraiser but would have given less weight to appraisal comparable #4 that sold in 2015 as well as board of review comparables #1 and #4 that also sold in 2015. Perry was also of the opinion that the markets in Deerfield and Lake Forest are generally superior to the market in Bannockburn. Perry did not know whether board of review comparables #1 through #4 had an inground swimming pool or bathhouse.

At the hearing Mr. Gunnarsson withdrew the equity evidence submitted by the board of review, which appeared to relate a property other than the subject property. The appellant had no objection to the board of review's withdrawal of the comparable equity evidence.

The board of review also made a legal argument with respect to the applicability of Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) to the instant appeal. The board of review explained the subject property was the subject matter of an appeal before the Property Tax Appeal Board (PTAB) for the 2015 tax year under PTAB Docket No. 15-04210.001-R-1. The board of review submitted a copy of the PTAB's decision issued in Docket No. 15-04210.001-R-1 on January 27, 2017, reducing the subject's assessment to \$482,737 based on an agreement of the parties. The board of review cited section 16-185 of the Property Tax Code (35 ILCS 200/16-185) which is applicable to owner occupied dwellings and provides in relevant 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

¹ In his comments, the appellant's appraiser stated that he considered a property located at 1280 North Avenue, which is the same property as board of review comparable sale #1, but chose not to use the sale as the property is effectively in Deerfield and has unique property appeal with a 1.96-acre site nearly in town, therefore the appraiser posited the sale does not really compare to the subject.

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 explained that 2015 was the first year of the general assessment cycle in West Deerfield Township that runs through tax year 2018. It also disclosed that township equalization factors were applied in 2016 and 2017 of 1.0643 and 1.0393, respectively. The board of review explained the subject's 2017 assessment was the product of the PTAB's assessment for the 2015 tax year of \$482,737 adjusted by the 2016 and 2017 equalization factors of 1.0643 for 2016 and 1.0393 for 2017, respectively, to arrive at a total assessment of \$533,968 as provided by section 16-185 of the Property Tax Code.

Gunnarsson argued that the two exceptions provided for the application of section 16-185, that the property sold in an arm's length transaction subsequent to the Property Tax Appeal Board's decision or the decision of the Property Tax Appeal Board was reversed or modified on review, are not present in this appeal. Therefore, Section 16-185 requires the assessment be carried forward for the remainder of the general assessment period subject to equalization. Gunnarsson referenced two cases decided by the Circuit Court of the Nineteenth Judicial Circuit, Lake County, in Abtahi v. Illinois Property Tax Appeal Board, Case No. 18 MR 1116 (hereinafter "Abtahi") and Bruksch v. Illinois Property Tax Appeal Board, Case No. 13 MR 36 (hereinafter "Bruksch"), which was a consolidation of 23 cases. He asserted that each of these cases involved the applicability of "rollover" requirement of Section 16-185 of the Property Tax Code to a similar situation as in the instant appeal. He explained that the court in each of these cases had a different reading of the statute and contends Abtahi, wherein the court reversed the decision of the Property Tax Appeal Board, was incorrectly decided. He contends the plain reading of the statute requires the application of Section 16-185 to the facts of this case, that is if the PTAB lowers the assessment that assessment remains for the remainder of the general assessment period subject to equalization.

The board of review requested the assessment of the subject property be sustained at \$533,968.

In response to the board of review legal argument, Nader argued the Bruksch was a "short" order affirming the PTAB's decision, but that appeal had different facts than this appeal. Nader argued that in Abtahi, the circuit court entered a Memorandum Order finding that two provisions of the Property Tax Code, Section 16-80 and Section 16-185 (35 ILCS 200/16-80 & 16-185) create inconsistent results and reversed the PTAB's decision that applied Section 16-185 on that basis.

The parties submitted copies of the circuit court orders in Bruksch and Abtahi and the board of review provided a copy of the Memorandum of Law in Opposition to the Complaint for Administrative Review it filed in Bruksch. Following the hearing the parties submitted briefs in support of their respective positions regarding the workings of Section 16-185 of the Property Tax Code (hereinafter "the Code").

In its brief the appellant contends that a literal reading of Section 16-185 of the Code as argued by the board of review conflicts with the legislative intent to protect homeowners. In support of this proposition the appellant referenced the legislative debates surrounding the amendment to

section 16-185 of the Code to its current language. In summary, the language in the debates amending Section 16-185 of the Code indicate the amendment was designed to prevent the township assessor from increasing an assessment after the PTAB issues a decision reducing the prior year's assessment. The appellant argued that the protection provided by this statute is triggered only when an assessment is reduced by the PTAB, indicating the intent to protect against increases in the assessment. The appellant further contends Section 16-185 of the Code cannot be read in isolation but must be viewed in the context of the entire statutory scheme affecting real estate assessments. The appellant argued a literal reading of the statute renders it inconsistent with other provisions of the Code and produces absurd results. The appellant contends a literal reading of Section 16-185 of the Code conflicts with Sections 16-30, 16-55(a) and 16-80 of the Code. The appellant argued that a literal reading of Section 16-185 of the Code would prevent a reduction in the assessment of an owner-occupied dwelling if the home was destroyed by fire even though Section 16-180 of the Code allows for a reduced assessment when a property is destroyed by accidental means. The appellant also argued that a literal reading of Section 16-185 prevents an owner of a residential property from obtaining another assessment reduction after a favorable PTAB decision while the owner of a commercial property could seek a further reduction year after year without any statutory impediment. The appellant argued the court in Abtahi recognized that the interpretation of Section 16-185 of the Code would lead to absurd results and defeat the expressed intent of the legislature in enacting the statute.

In its brief the board of review contends that the appellant's argument against a literal reading of Section 16-185 is in derogation to the rules of statutory construction that provides the best indication of legislative intent is in the actual language of the statute. The board of review argued that if the language of a statute is clear and unambiguous it must be applied and there is no need for the application of the aids of statutory construction. The board of review further argued that a literal interpretation of Section 16-185 of the Code does not conflict with any other Section of the Code that addresses the carrying forward of a prior PTAB decision lowering residential assessments in the same general assessment period. It also argued that there is no conflict between the workings of Section 16-185 of the Code and Section 9-180 the Code, which allows for a reduced assessment in the event a property becomes uninhabitable due to destruction by accidental means, as Section 9-180 of the Code provides a more specific exception than Section 16-185 of the Code. The board of review also argued that unlike residential properties, commercial properties can be subject to taxing districts' challenging their assessments notwithstanding a prior PTAB decision lowering the assessment. The board of review contends that there is nothing absurd in laying to rest residential appeals for the remainder of the general assessment period once a PTAB decision is reached lowering the assessment while not doing so for commercial property. The board of review argued Section 16-185 of the Code provides for stability in residential assessments to mitigate against time and expense of challenging those assessments. According to the board of review another rational basis for the distinction between residential and commercial properties is because there are so many more residential than commercial properties and providing stability in residential assessments after PTAB decisions lowering assessments eases the burden on the administration of assessments.

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, pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185), a reduction in the subject's assessment is not warranted.

The subject property has a total assessment of \$533,968 which reflects a market value of \$1,610,763 or \$298.01 per square foot of living area, land included, when using the 2017 three-year average median level of assessment for Lake County of 33.15% as determined by the Illinois Department of Revenue. The appellant submitted an appraisal and presented the testimony of the appraiser estimating the subject had a market value of \$1,425,000 as of January 1, 2017. The board of review provided information on four comparable sales in support of the assessment of the subject property. The Board finds, however, pursuant to Section 16-185 of the Code, the assessment of the subject property as established by the board of review is correct and there is no need to further consider the merits of the market data evidence provided by the parties.

The parties argued over the interpretation of Section 16-185 of the Code. The Property Tax Appeal Board finds the language of Section 16-185 of the Code is clear, plain, and unambiguous. Therefore, the PTAB finds it does not need to resort to extrinsic aids, such as the legislative history, to determine the legislative intent of the statute.

Section 16-185 of the Code provides in relevant 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.

35 ILCS 200/16-185. The Board finds that the subject property was the subject matter of an appeal before the Property Tax Appeal Board for the 2015 tax year under Docket No. 15-04210.001-R-1 in which a decision was issued reducing the subject's assessment to \$482,737, based on an agreement of the parties. The record further disclosed the subject property is an owner-occupied dwelling. The Board also finds that the 2015 and 2017 tax years are in the same general assessment period and equalization factors of 1.0643 and 1.0393 were applied in West Deerfield Township in 2016 and 2017, respectively. Furthermore, the decision of the Property Tax Appeal Board for the 2015 tax year was not reversed or modified upon review and there was no evidence the property sold establishing a fair cash value different from the fair cash value on which the Board's decision was based. Therefore, the Property Tax Appeal Board finds the assessment as established by decision for the 2015 tax year in Docket No. 15-04210.001-R-1 totaling \$482,737 should be carried forward through the 2017 tax year subject only to the equalization factors applied 2016 and 2017, pursuant to the dictates of Section 16-185 of the Property Tax Code. The assessment the subject property for the 2017 tax year totaling \$533,968

reflects the proper application of Section 16-185 of the Code by adjusting the 2015 assessment totaling \$482,737 by the 2016 equalization factor of 1.0643 and the 2017 factor of 1.0393. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is not warranted.

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:

December 20, 2022



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

Sharon Kregel, by attorney:
Jason W. Newton
Schoenberg Finkel Beederman Bell Glazer LLC
300 S. Wacker Drive
Suite 1500
Chicago, IL 60606

COUNTY

Lake County Board of Review
Lake County Courthouse
18 North County Street, 7th Floor
Waukegan, IL 60085