



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

APPELLANT: Thomas Martin  
DOCKET NO.: 17-04079.001-F-2  
PARCEL NO.: 07-08-200-015

The parties of record before the Property Tax Appeal Board are Thomas Martin, the appellant, appearing at hearing by attorney Kelly A. Helland, of the Law Offices of Daniel J. Kramer, in Yorkville; the Kendall County Board of Review appearing at hearing by Assistant State's Attorney James Webb; and both the Newark C.C.S.D. #66 and Newark C.H.S.D. #18, intervenors, by attorney Scott L. Ginsburg of Robbins, Schwartz, Nicholas, Lifton & Taylor, in Chicago.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction**<sup>1</sup> in the assessment of the property as established by the **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

<b>F/Land:</b>	\$6,960
<b>Homesite:</b>	\$25,280
<b>Residence:</b>	\$178,599
<b>Outbuildings:</b>	\$78,730
<b>TOTAL:</b>	\$289,569

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kendall 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 parcel of approximately 38.20-acres includes, in part, farmland and farm outbuildings which are not in dispute in this appeal. The portion of the subject property which has been challenged in this appeal consists of a recorded 1.74-acre homesite improved with a

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<sup>1</sup> A reduction has been issued for the residence or dwelling improvement assessment; no other aspect of the assessment has been changed.

three-story<sup>2</sup> single-family dwelling of brick exterior construction. The home is approximately 10 years old having been built in 2007. Features of the home include a finished 1,200 square foot walkout-style basement, five full bathrooms and one-half bathroom (i.e., 5.5 bathrooms), central air conditioning, an elevator, two fireplaces and a basement two-car garage containing 588 square feet of building area with a dumbwaiter to the pantry on the first floor. Additional features include a detached two-car garage containing 960 square feet of building area with a Modine ceiling heater and a bonus room above the garage for storage that is finished with drywall and electrical supply but no heating/cooling or plumbing amenities. The property is located in Newark, Big Grove Township, Kendall County.

As an initial issue, the parties dispute the total living area square footage of the home. Although the parties were asked by the Administrative Law Judge (ALJ) to consult and seek resolution of this dwelling size dispute, after consultation they were unable to do so. However, the parties were able to stipulate that neither the enclosed frame porch (sunroom) nor the bonus room above the detached garage were included in either party's respective calculation of the living area square footage of the home. (TR. 55-57)<sup>3</sup>

As to the dwelling size, the appellant contends the home contains 3,715 square feet of living area. In support of this opinion, he included a schematic drawing of his home from an appraisal report that used interior measurements and set forth a dwelling size of 3,932 square feet of living area. From the appraiser's drawing and size determination, the appellant has deducted 217 square feet which he identified as the unheated sunroom on the first floor of the home that should not be included in the living area square footage.

For their opinion of dwelling size, both the board of review and the intervenors report that the subject dwelling contains 4,196 square feet of living area based upon a schematic drawing of the dwelling contained in the board of review's evidentiary submission. This schematic drawing was prepared by the township assessor using exterior measurements and details all the various exterior walls including angles in the design.

Based on the documentation in the record as presented in the parties' respective schematic drawings and the testimony taken at hearing, the Property Tax Appeal Board finds that the best evidence of dwelling size was presented by the Kendall County Board of Review. The board of review dwelling size information presents a schematic drawing using exterior measurements with many more details as to the bump-out areas and angles of the subject dwelling with each of those respective measurements. In contrast, the Board finds that the appellant's schematic drawing fails to include numerous measurements of angled areas necessary to accurately set forth the living area square footage of the home. For instance, the disputed sunroom consists of six sections of walls which are each measured in the board of review's schematic drawing whereas only three exterior walls have measurement data in the appellant's schematic drawing. Therefore, the Property Tax Appeal Board finds that the subject dwelling contains 4,196 square feet of living area as set forth in the board of review's schematic drawing and which excludes the

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<sup>2</sup> The assessing officials set forth the dwelling design as 2.5-story although the assessor's schematic drawing of the home depicts a basement and three separate floors with living area.

<sup>3</sup> References to the transcript of the proceedings are referred to as "TR." followed by page number citation(s).

unheated sunroom identified as an "enclosed frame porch" (EFP of 160 square feet) and the bonus room above the detached garage.

The appellant appeared at hearing with counsel contending both a lack of assessment equity concerning the residential improvement assessment and overvaluation for the improvement and homesite portion of the property.<sup>4</sup> No dispute was raised in this appeal concerning the farmland or farm building assessments. The appellant commenced this appeal *pro se*. In support of this appeal, the appellant presented information in the Section V grid analysis of the Residential Appeal petition (marked at hearing as Appellant's Hearing Exhibit A) with both sales and equity data on four comparable properties.

The appellant Thomas Martin was called as a witness and testified regarding the data set forth in the Section V grid analysis. The appellant gathered the data from Kendall County Assessor's records. (TR. 12-13) The appellant testified that he is a plumbing contractor and, in that role, has had the opportunity to view custom built homes as compared to tract homes; he stated he has the ability to testify as to the differences in these two types of homes. (TR. 15) The appellant averred that each of the four comparable properties he presented for this appeal were custom dwellings.

As set forth in the Section V grid analysis along with the appellant's testimony, the appellant's comparable properties #1 and #2 are located 2 and 7-miles, respectively, from the subject property; the appellant was unable to state the distances from his home to appellant's comparables #3 and #4. The four comparable parcels range in size from 1-acre to 7-acres of land area and have each been improved with a two-story dwelling of cedar, cedar and stone or brick and cedar exterior construction. The dwellings range in age from 15 to 25 years old and range in size from 2,965 to 4,100 square feet of living area. Each comparable is reported to have a full basement, two of which reportedly have finished area. Each dwelling has from 2.5 to 4.5 bathrooms, central air conditioning, one or two fireplaces and from a three-car to a six-car garage amenity. These four comparables sold from September 2015 to May 2017 for prices ranging from \$337,000 to \$488,000 or from \$113.51 to \$138.28 per square foot of living area, including land. The comparable dwellings have improvement assessments ranging from \$89,509 to \$129,324 or from \$30.18 to \$32.64 per square foot of living area. (Appellant's Hearing Exhibit A)

At hearing, appellant Martin testified that his home as of January 1, 2017 would be worth "in the high \$500,000 range." (TR. 23-24)

For purposes of this assessment appeal, the appellant requested no change in the subject's homesite assessment of \$25,280 and a reduction in the subject's improvement assessment to \$116,386 or \$31.33 per square foot of living area for a total homesite and reduced improvement assessment of \$141,666 which would reflect a market value of approximately \$425,000, including homesite land, when applying the statutory level of assessment of 33.33%.

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<sup>4</sup> As part of the appeal petition, the homesite assessment was not disputed. However, for purposes of a market value analysis of the dwelling and the land which qualifies as homesite, the Board has utilized both assessments in its analysis within the overvaluation claim.

Upon cross-examination by the board of review's counsel, the appellant Martin acknowledged that none of the comparable dwellings he presented were all brick homes like the subject dwelling. Martin also acknowledged that the board of review describes the subject dwelling as containing 4,196 square feet of living area. (TR. 25)

Upon cross-examination by the intervenors' counsel, the appellant confirmed the number of bathrooms in the subject dwelling and in appellant's comparable #1. The appellant also further described the process when exterior measurements of the subject dwelling were taken by the Big Grove Township Assessor. Upon questioning, the appellant identified that each of his four comparables are located within Big Grove Township. The appellant also acknowledged that while the subject dwelling is a three-story home, each of his comparables is a two-story design. Appellant Martin also acknowledged that the subject dwelling has an elevator amenity, whereas none of the appellant's comparables have this feature. The subject home also has a dumbwaiter to transport groceries from the basement garage up to the pantry; the appellant does not have information that any of his comparables have this feature. Under the porch, the appellant constructed a concrete room which can serve as a storm shelter. The appellant thought that possibly appellant's comparable #1 has a similar storm shelter feature. (TR. 35-39)

With additional questioning, the appellant testified that the subject dwelling and his comparables #2, #3 and #4 each have private wells and private septic; appellant's comparable #1 is located in-town and has sewer and water. The appellant opined that it was less expensive to have city sewer and water than to install and maintain a well and septic system for a residence. (TR. 40-41)

Upon redirect examination, appellant Martin testified that when he moved into Newark in 1980, the population was about 600; as of the hearing date, he estimated the population was 2,100. (TR. 42)

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$324,183. The four aspects of the subject's assessment are farmland of \$6,960, outbuildings of \$78,730, a homesite of \$25,280 and a residence of \$213,213 or \$50.81 per square foot of living area. The subject's homesite and residence combined assessment of \$238,493 reflects a market value of \$716,626 or \$170.79 per square foot of living area, homesite land included, when using the 2017 three-year average median level of assessment for Kendall County of 33.28% as determined by the Illinois Department of Revenue.

For purposes of the hearing, the board of review called Kendall County Chief County Assessment Officer Andy Nicoletti as its witness. Nicoletti has held that position in Kendall County for 13 years and he has about 30 years of experience in the assessment field both at the township and county level. (TR. 43-44)

In support of its contention of the correct assessment, the board of review submitted information on three comparable sales which were chosen by Nicoletti. In testimony, Nicoletti explained that the subject dwelling is fairly unique in its dwelling size and having an all-brick exterior. The comparables were chosen due to being all brick dwellings, despite that "they have a little bit of distance to them from the subject." Nicoletti also referenced the schematic drawing of the subject which was prepared by the township assessor and sets forth a dwelling size of 4,196

square feet of living area, excluding the screened porch or sunroom (EFP) and further depicting the basement garage of the home. (TR. 44-46, 48)

The board of review comparable properties set forth in the grid analysis are located from 12 to 16-miles from the subject property and are either in the communities of Yorkville or Oswego. Nicoletti testified these comparables are located respectively in Na-Au-Say, Oswego and Bristol Townships. The parcels range in size from 3/4 of an acre to 9.61-acres of land area and have each been improved with a two-story dwelling of brick exterior construction. The dwellings are either 10 or 22 years old and range in size from 3,417 to 6,105 square feet of living area. Each comparable is reported to have a basement, either a look-out or a walk-out style and two of which have finished area. Each dwelling has from 3.5 to 7.5 bathrooms, central air conditioning, one or four fireplaces and a garage ranging in size from 824 to 1,385 square feet of building area. Comparable #2 has an elevator and comparable #3 has an inground swimming pool. The comparables sold from July 2016 to August 2017 for prices ranging from \$465,000 to \$895,000 or from \$136.08 to \$158.38 per square foot of living area, including land. The comparable dwellings have improvement assessments ranging from \$145,533 to \$263,370 or from \$42.59 to \$43.68 per square foot of living area. (TR. 47-48)

Nicoletti also testified concerning the lack of comparability in the appellant's comparable properties when compared to the subject. Nicoletti noted that appellant's comparable #1 is a cedar home as compared to the subject and smaller dwelling size. He also noted that appellant's comparable #1 is in-town and has city services with the property as compared to the subject's rural setting. Nicoletti opined that appellant's comparables #2 and #4 with a 2015 sale dates were not relevant to the subject's estimated market value for 2017. For appellant's comparable #3, the assessing officials depict the property with a four-car garage rather than the six-car garage reported by the appellant. As to appellant's comparables #2, #3 and #4, Nicoletti testified the properties are actually located in either Fox or Lisbon Townships. He also noted that appellant's comparables #3 and #4 do not have finished basement area. (TR. 48-50)

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

On cross-examination by appellant's counsel, Nicoletti testified that both Fox and Lisbon Townships abut Big Grove Township which are each more rural areas. As to board of review comparable #1, Nicoletti acknowledged that this property situated in Na-Au-Say Township is also located in a golf course subdivision that features a clubhouse and restaurant. Furthermore, Na-Au-Say Township abuts Will County. (TR. 51-52)

Upon examination by intervenors' counsel, Nicoletti opined that the subject's assessment reflecting a fair market value for the home and homesite of approximately \$715,550 was appropriate as of January 1, 2017. (TR. 53, 57)

The intervening taxing districts rested at hearing on the three-page brief filed by their counsel which included the same three comparable properties presented by the Kendall County Board of Review in support of the subject's current assessment. In addition, the intervenors' submission included rebuttal data highlighting various differences between the subject property and the appellant's four comparable properties. For each parties' comparable properties, the intervenors

provided supported documentation from the assessor's website along with color photographs of the board of review's comparable dwellings and appellant's comparable #1.

For rebuttal at hearing, appellant Martin was recalled. He described the third floor of the subject dwelling as a big, open room with carpeting similar to a family room or rec room with a bathroom and windows which look out onto the farm. Furnishings in this third-floor room include a pool table. (TR. 58-59)

In closing, counsel for appellant sought to conform the assessment request to the appellant's testimony that the dwelling should have a market value "in the high \$500,000 range" or a homesite and improvement assessment request of \$196,666 or a market value of approximately \$590,000 when applying the statutory level of assessment of 33.33%. (TR. 59-60)

Both the board of review and intervenor contended that the appellant failed to meet the applicable burdens of proof and the subject's assessment should be confirmed.

### **Conclusion of Law**

The appellant contends in part that 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). Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he 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). The Illinois Supreme Court has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). The decision of the Property Tax Appeal Board must be based upon equity and the weight of evidence. (35 ILCS 16-185) After thoroughly examining the comparable sales evidence in the record, the Board finds a reduction in the subject's assessment is warranted.

The parties submitted a total of seven comparable sales to support their respective positions before the Property Tax Appeal Board. The Board finds that none of the comparable properties presented by the parties are similar in all characteristics to the subject unique dwelling and each comparable necessitates numerous upward and downward adjustments for differences when compared to the subject. For its analysis, the Board has given reduced weight to appellant's comparables #1, #2 and #4 due to differences in dwelling size, age and/or features when compared to the subject. The Board has also given reduced weight to board of review comparable #1 due to its smaller dwelling size when compared to the subject.

On this limited record, the Board finds the best evidence of market value to be appellant's comparable sale #3 along with board of review comparable sales #2 and #3. These most similar comparables sold from July 2016 to May 2017 for prices ranging from \$488,000 to \$895,000 or

from \$119.02 to \$158.38 per square foot of living area, including land. The subject's assessment reflects a market value of \$716,626 or \$170.79 per square foot of living area, including homesite land, which is above the range established by the best comparable sales in this record on a per-square-foot basis. None of the best comparable sales presented in this appeal depict a market value as high as the subject's estimated market value based on its assessment of \$170.79 per square foot of living area, including homesite land. Placing greatest weight on board of review comparables #2 and #3 and after the Board has considered both upward and downward adjustments the best comparable sales in the record in order to make the comparables more equivalent to the subject property given differences in location, land area, age, dwelling size, exterior construction, number of bathrooms, basement style, basement finish, cumulative garage size and/or other amenities, the Board finds a reduction in the subject's assessment is justified on grounds of overvaluation.

The appellant also contended unequal treatment in the subject's residence or improvement assessment as a basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data and considering the reduction in assessment for overvaluation, the Board finds that the subject property is equitably assessed and no further reduction in the subject's assessment is 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

Thomas Martin, by attorney:  
Kelly A. Helland  
Law Offices of Daniel J. Kramer  
1107A S. Bridge  
Yorkville, IL 60560

COUNTY

Kendall County Board of Review  
Kendall County Office Building  
111 West Fox Street  
Yorkville, IL 60560

INTERVENOR

Newark C.C.S.D. #66, by attorney:  
Scott L. Ginsburg  
Robbins Schwartz Nicholas Lifton Taylor  
55 West Monroe Street  
Suite 800  
Chicago, IL 60603

Newark C.H.S.D. #18, by attorney:  
Scott L. Ginsburg  
Robbins Schwartz Nicholas Lifton Taylor  
55 West Monroe Street  
Suite 800  
Chicago, IL 60603