



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

APPELLANT: Richard & Mary Mary Levey
DOCKET NO.: 17-04856.001-R-1
PARCEL NO.: 09-25-201-014

The parties of record before the Property Tax Appeal Board are Richard & Mary Mary Levey, the appellants, by attorney Donald C. Stinespring Jr., of Donald C. Stinespring & Associates in Richmond; and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$14,345
IMPR.: \$60,405
TOTAL: \$74,750

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the McHenry 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.

The legal arguments for docket numbers 16-05744.001-R-1, 17-04804.001-R-1, 16-05745.001-R-1, 17-04857.001-R-1, 16-05746.001-R-1, 17-04855.001-R-1, 16-05747.001-R-1, 17-04784.001-R-1, 16-05748.001-R-1, and 17-04856.001-R-1 have been consolidated in the instant proceeding before the Property Tax Appeal Board as argued and as if fully restated herein. The Board will make a separate decision for each of the above appeals and/or consolidated appeals with the same parcel numbers where applicable.

Legal Argument

The appellants appeared before the Property Tax Appeal Board through counsel claiming a contention of law issue and assessment inequity regarding the subject's improvement. The subject's land assessment is not contested. Counsel argues that appellants' entire subdivision was unilaterally revalued wherein the assessments within the neighborhood were increased over 30% from the previous year. Counsel argues that a comparison of similar properties within the

subject's neighborhood creates a self-fulfilling justification for the increased assessment. Counsel further argues assessments of similar type properties in surrounding neighborhoods should be considered, which was flatly rejected by the board of review. In support of the legal argument, counsel cited *Apex Motor Fuel Co. v Barrett*, 20 Ill. 2d 395 (1960); *People ex rel. McDonough v. Illinois C. R. Co.*, 355 Ill. 605 (1934); *Givens v. Illinois Property Tax Appeal Bd.*, 84 Ill. App. 3d 218 (5th Dist. 1980); *People ex rel. Schlaeger v. Allyn*, 393 Ill. 154 (1946); and *Pace Realty Group v. Property Tax Appeal Bd.*, 306 Ill. App. 3d 718 (2nd Dist. 1999).

The board of review argues the subject neighborhood was revalued in 2016 using sales from 2013, 2014 and 2015, all stratified into appropriate groups and using the same methodology to determine value. Further, the board of review argued that the comparables submitted by the appellants were from other dissimilar neighborhoods, not within the subject's neighborhood.

Second, the appellants argued the local assessor utilized an improper sales ratio study to determine an increase in the assessment of the properties located in the subject's neighborhood was appropriate. Counsel argued the assessor was required to use the prior year assessment (2015) of each sale divided by its current sale price in 2016 in order to ratify the level of assessment with the market value as reflected by its sale. In addition, counsel argued the assessor utilized properties that should not have been considered based on their date of sale and/or the nature of the sale.

In reply, the board of review submitted a letter prepared by McHenry Township Assessor, Mary Mahady. Mahady explained she decided to revalue the subject's neighborhood based on sales within the neighborhood from 2012 to the end of 2015. She states in her letter that the sales indicate the ratio information for the parcels at the time in relation to the 2015 assessment. She argued the report was not prepared within the guidelines of a sales ratio study for equalization as prepared by the Illinois Department of Revenue, but rather, it was used as a tool to determine if revaluation of the subject's neighborhood was necessary for 2016.

Mahady further stated she is required to value properties at 33.33% of their value and the sales ratio information for the subject's neighborhood indicated the median level of assessments in the Liberty Trails subdivision was 27.71%, which indicated to her that there was a need for revaluation in that subdivision. Mahady stated that the purpose of the reassessment in Liberty Trails subdivision and other selected neighborhoods was to provide equitable treatment to all McHenry Township properties, by placing all properties as near as possible to 33.33%.

Findings of Fact

The subject property consists of a one-story dwelling of frame and stone construction with 2,139 square feet of living area. The dwelling was constructed in 2005. Features of the home include a full unfinished walkout basement, central air conditioning, a fireplace and a 2-car garage. The property has an 11,200 square foot site and is located in McHenry, McHenry Township, McHenry County.

The appellants contend assessment inequity in regard to the subject improvement as one basis of the appeal. The subject's land assessment is not contested. In support of this argument the appellants submitted information on four equity comparables located within 6.2 miles of the

subject. Photographs of comparable properties were submitted to show properties in competing neighborhoods were similar to the subject. The four comparables submitted by the appellants were one-story dwellings of vinyl or vinyl and brick exterior construction that ranged in age from 5 to 19 years old. Each comparable featured a basement with one being a partial basement and the others featuring a full basement. One of the basements was finished. Each comparable features central air conditioning, two have a fireplace and each has a 2-car garage. The comparables range in size from 1,800 to 2,362 square feet of living area and have improvement assessments ranging from \$47,323 to \$76,881 or from \$24.71 to \$32.55 per square foot of living area. Based on this evidence, the appellants requested a reduction in the subject's improvement assessment to \$60,405 or \$28.24 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$95,490. The subject property has an improvement assessment of \$81,145 or \$37.94 per square foot of living area.

In support of its contention of the correct assessment the board of review submitted information on three equity comparables located within the subject's Liberty Trails Unit 1 or Unit 2 subdivision. Each comparable was the same model as the subject. The one-story comparables were built in either 2004 or 2005 with exterior construction of stone and vinyl, brick and vinyl or vinyl. The comparables featured full walkout basements, central air conditioning and a 2-car or 3-car garage. One comparable has a fireplace. The comparables have improvement assessments ranging from \$80,355 to \$82,730 or from \$37.57 to \$38.68 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The taxpayers contend as a matter of law the subject's assessment is incorrect. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under the Illinois Administrative Procedure Act by an agency shall be the preponderance of the evidence. (5 ILCS 100/10-15). The rules of the Property Tax Appeal Board do not provide for the standard of proof when a contention of law is raised, therefore, the standard of proof is the preponderance of the evidence. The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is justified.

The record is clear the local assessor revalued the subject's neighborhood based on sales occurring within the subject's neighborhood from the previous three years. The assessor was attempting to achieve a level of assessment for the subject property of 33.33% as required by the Property Tax Code. The Board finds the assessor is correct in that she may reassess property as necessary to achieve a uniform level of assessments that is fair and just.

As a general principle, for single-family residential property such as the subject, the assessing officials determine fair cash value using methods, such as, (1) market data which is a comparison of similar, neighboring properties recently sold to the property being assessed and (2) cost which is a calculation of the cost to reproduce (or rebuild) a property, subtracted by the depreciation (e.g., wear and tear, age) amount, plus the land value. See *Publication 136*, Property Assessment and Equalization by the Illinois Department of Revenue (April 2016), p. 6.

Pursuant to the Property Tax Code, in Illinois real property assessment should be 33.33% of the fair cash value which is to be based on the Illinois Department of Revenue's sales ratio studies for the three most recent years preceding the assessment year, adjusted to take into account any changes in assessment levels implemented since the data for the studies were collected. (35 ILCS 200/1-55).

Further, Section 9-75 of the Property Tax Code provides in relevant part:

The chief county assessment officer of any county with less than 3,000,000 inhabitants, or the township or multi-township assessor of any township in that county, may in any year revise and correct an assessment as appears to be just. . . . (35 ILCS 200/9-75).

The Board finds the framework of the Property Tax Code illustrates the broad authority of boards of review to review and change individual assessments as appears fair and just. The Board finds in the instant appeal the McHenry County Board of Review determined the subject's final assessment. The evidence disclosed the appellants timely filed a complaint with the board of review contesting the subject's assessment. The McHenry County Board of Review issued a written decision denying the complaint and confirming the assessment, which in turn conferred jurisdiction upon the Property Tax Appeal Board. The Property Tax Appeal Board's jurisdiction is to determine the correct assessment of a property, which is the subject of an appeal based on the equity and weight of the evidence. (35 ILCS 200/16-180 and 16-185).

Section 16-20 of the Property Tax Code provides:

In counties with less than 3,000,000 inhabitants the board of review shall, in any year, whether the year of the general assessment or not, perform the functions set forth in Sections 16-25 through 16-90 of the Property Tax Code. (35 ILCS 200/16-20).

Section 16-30 of the Property Tax Code provides in part that:

[T]he board of review . . . shall meet on or before the first Monday each June to revise the assessment of property. At the meeting, the board of review upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just. . . (35 ILCS 200/16-30).

Furthermore, Section 16-55 of the Property Tax Code provides in pertinent part:

On written complaint that any property is over assessed or under assessed, the board shall review the assessment, and correct it, as appears to be just, but in no case shall the property be assessed at a higher percentage of fair cash value than other property in the assessment district prior to equalization by the board or Department . . . The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce, or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the

assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department. . . . Before making any reduction in assessments of its own motion, the board or review shall give notice to the assessor or chief county assessment officer who certified the assessment, and give the assessor or chief county assessment officer an opportunity to be heard thereon . . . (35 ILCS 200/16-55).

The Board finds these statutes clearly provide that the board of review has broad authority, by its own motion or upon written complaint, in any year to review the assessment of any property, and revise and correct that assessment as appears to be just. The only constraint to the board of review's action is that the revision or correction must result in a uniform assessment, that is an assessment that is at the same percentage of fair cash value *as other similar property in the same assessment district*.

With respect to the equity analysis submitted by the board of review, the Property Tax Appeal Board gave little weight to this evidence for multiple reasons. First, the Board finds the assessor failed to utilize the proper method in calculating the assessment to value ratio for the properties. Notwithstanding the lack of foundation for the equity analysis in terms of disclosing the properties used in the study, their actual sale prices and assessments, the Board finds the proper method to calculate assessment to value ratios for ad valorem taxation purposes is by using a property's prior year's assessment divided by its arm's-length sale price. In the instant case, the assessor testified that she used sales from 2013 to 2015 and used their "current assessments." Thus, the Property Tax Appeal Board finds it can give little credence to the assessor's contention that the subject property is equitably assessed based on its sales ratio study performed only within the subject's neighborhood.

Second, the Property Tax Appeal Board finds the equity analysis is not dispositive in determining whether the individual property that is the subject matter of this appeal is equitably assessed. The Board finds these types of ratio studies, even if determined to be proper, evaluates the accuracy of assessed values in comparison to the marketplace as a whole, not the individual subject property that is subject to this appeal. The Board finds ratio studies are one of the primary tools for measuring mass appraisal performance. This tool is commonly used to calculate equalization factors or to determine whether assessors are entitled to additional compensation. (35 ILCS 200/4-20). This Board fully recognizes, based on the assessor's limited ratio study, assessments in the subject's neighborhood do not appear to mimic the market to some extent. However, again this evidence is not demonstrative that the individual subject property in this appeal is uniformly assessed in comparison to other similar properties by clear and convincing evidence.

The Board finds comparing the subject property to similar comparable properties only located within the subject's neighborhood that underwent the same reassessment process would be self-validating to a uniformity argument. The court in *Pace Realty Group v. Property Tax Appeals Bd.*, 306 Ill. App. 3d 718 (2nd Dist. 1999) held that [t]he Illinois Constitution requires uniformity of taxation (Ill. Const. 1970, art. IX, § 4(a)) and prohibits taxing officials from valuing one kind of property within a taxing district at a certain proportion of its true value while valuing the same

kind of property in the same district at a substantially lessor or greater proportion of its true value. (citing, *Kankakee County*, 131 Ill. 2d at 20). The court in *Pace Realty* found the Property Tax Appeal Board erred when as a matter of law it selected as a comparable a parcel of property which had also received the same contested assessment. *Id.* at 728. Further, [c]onducting uniformity analysis in such a manner will lead to absurd results and will render the assessment appeal process meaningless. *Id.*

Based on an analysis of the Code and court decisions cited above, the Board finds it was error to submit comparable properties of a contested neighborhood to validate and support an equity argument for a property located within the same contested neighborhood. Therefore, the Board gives little weight in its analysis to the comparables submitted by the board of review.

The facts of this case are unique; therefore, this decision is limited to the facts of this case in the instant appeal only. The Board finds other properties located outside of the contested neighborhood should have been examined and presented to compare the level of assessments to sale ratio to establish a uniformity of assessments within the township compared to the contested neighborhood.

The Property Tax Appeal Board finds the more traditionally accepted method of determining whether uniformity of assessments exist is by comparing and contrasting property assessments together with their salient physical characteristics.

The taxpayers contend assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the 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). The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellants submitted four comparable properties located within 6.2 miles of the subject. The testimony at hearing revealed the comparable properties were located within the subject's market area, but outside of the contested neighborhood. This was not refuted by the board of review. In support of uniformity, the appellants provided pictures of the comparables which represented one house from each of the four different neighborhoods. The comparables had improvement assessments ranging from \$47,323 to \$76,881 or from \$24.71 to \$32.55 per square foot of living area. The subject's improvement assessment is \$81,145 or \$37.94 per square foot of living area, which the Board finds is higher than the comparable properties located outside of the contested neighborhood, but still located within the subject's market area.

After consideration of the salient characteristics of each comparable in contrast to the subject's salient features, the Board finds the subject's improvement assessment is excessive and a reduction is warranted commensurate with the appellants' request.

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: October 20, 2020



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.

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