



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

APPELLANT: Craig Wetter
DOCKET NO.: 18-00996.001-R-1
PARCEL NO.: 15-21-227-005

The parties of record before the Property Tax Appeal Board are Craig Wetter, the appellant, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$4,842
IMPR.: \$20,158
TOTAL: \$25,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2018 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Preliminary Matters

The appellant Craig Wetter filed this overvaluation appeal and set forth Attorney James Jensen as his counsel of record before the Property Tax Appeal Board for purposes of service of pleadings and as his representative under the procedural rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.30(d)). Pursuant to the appellant's request for a hearing on this matter, the appeal was scheduled on August 24, 2021 for a virtual hearing via the Webex platform. The appellant appeared *pro se* at the virtual hearing without objection from the Kane County Board of Review.¹

¹ Technically, an attorney of record is required to formally withdraw as counsel in accordance with the Board's procedural rules (86 Ill.Admin.Code §1910.77) but given the status of this appeal of the appellant's virtual appearance and affirmative statement to proceed without counsel, a formal withdrawal process for counsel is deemed to be waived.

In the course of hearing, the Kane County Board of Review was made aware of the lack of substantive evidence in the record of the Property Tax Appeal Board other than the "Board of Review – Notes on Appeal." As a consequence, and during the virtual hearing, the board of review representative Michelle Abell submitted via electronic mail to both the *pro se* appellant and the Property Tax Appeal Board 14 pages of documentary evidence along with an oral request to consider these documents as an offer of proof of the evidence that was intended to be submitted in this matter (each page being marked consecutively as BOR #1 through BOR #14). The *pro se* appellant posed no objection to the offer of proof. There being no objection, the board of review's submission will be considered herein.

Findings of Fact

The subject property consists of a two-story multi-family dwelling of frame exterior construction with 2,448 square feet of building area which was constructed in 1900. Features include a partial basement, an enclosed porch and a detached 760 square foot garage. The property has a 7,703 square foot site and is located in Aurora, Aurora Township, Kane County.

The appellant's appeal is based on overvaluation and the appellant added "condition of property" as an additional handwritten basis of appeal.² In support of the overvaluation argument, the appellant partially completed Section IV – Recent Sale Data of the Residential Appeal petition reporting the subject property was purchased through a Sheriff's Sale in March 2015 for \$20,000. During the hearing, Wetter stated the subject property was part of a note he acquired in 2013/2014 involving ten properties for which he paid \$110,000. Wetter subsequently foreclosed on the property. When asked to explain the reported \$20,000 purchase price, Wetter testified he was attempting to allocate the purchase price but "I don't think it really reflects what I paid for the building or value or anything"; he was just trying to come up with something. The subject property was the worst of all of the properties.

More central to this overvaluation appeal, however, was the appellant's evidence of the property's condition. In support of the condition issues, the appellant provided 14 color photographs of the subject dwelling. The appellant testified the photographs were taken on or about March 28, 2018 which accurately reflect the condition of the subject property and accurately reflect the dwelling's condition as of the assessment date at issue of January 1, 2018.

In his testimony, Wetter stated this property was included in a package of ten properties, and it sat for years because it was in such bad condition; he didn't know what to do with it. He tried to sell the property to a couple of different people but was unable to generate any interest at any price because of the condition. He tried to obtain authorization to demolish the property, but it is in a historic district and was not permitted to do so. Wetter has also been told this structure is the oldest apartment building in Aurora.

² Included in the appellant's documentary evidence were three pages of spreadsheets entitled "Area 2123 – Craig Wetter Property – Sorted by Sqft." The appellant during the hearing was unable to state what the data was meant to represent for this appeal and reiterated the appeal is based solely upon condition. Given the testimony, for purposes of this appeal, the Property Tax Appeal Board will not further consider these three pages.

Wetter testified his work began in earnest on the property in the latter part of 2017 and did not really get into the work until 2018. The property had been vacant for over ten years and had no sewer due to a collapse. The first floor of the building was half underground and had to be removed; the building had joystick masonry. However, when Wetter began this work concerning the first floor, it removed all the supports for the center of the structure so then a new foundation had to be dug and a block wall installed in the center of the building in order to support the structure. To further detail the deteriorated condition, it was three years into the ownership of the building that Wetter found one of the bathrooms in the course of tearing the basement out. Due to these condition factors, Wetter testified it was a lot of really slow work for a period of time until he got into the project in 2018. Initially, the work involved digging trenches in the basement to pour a footing for the foundation in late 2017 since he could not work on the building until he found a way of supporting the structure. The initial monetary investment was no more than a few thousand dollars primarily for concrete.

As shown in the photographs in 2018, Wetter did some framing. As also depicted in the photographs in the appellant's submission, he testified the entire rear of the building had to be rebuilt; he also installed "HomeWrap" on the rear wall of the building. With the ongoing work in 2018, Wetter testified the outlay for materials was perhaps \$5,000. He testified the work was still in fits and starts "because I couldn't quite figure out what to do with it."

Wetter testified there was no income from the property until the latter half of 2019 and the first full year of income occurred in 2020. As of the date of hearing, the building has three different kinds of siding on it: fiber board; Hardie siding from the repair of the rear exterior wall; and original cedar siding.

The appellant stated that for several years, including tax year 2017, the subject had been assessed based on its condition. However, for tax year 2018 the assessing officials stopped providing a reduced assessment due to condition and raised the subject's assessment significantly despite that the appellant's repair work had not gotten very far.

During cross-examination, Wetter testified that he was not finished with the work in 2018 but was loading drywall in October 2018 and had it roughed in. Upon further questioning, Wetter testified that while some of the exterior work on the back wall had been done where it was rotten near the bottom, the work then became solely focused on that project to completely rebuild the rear wall, but it was not finished in 2018 either. He also did some work on one of the rear porches.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the identical 2017 total assessment of the subject property of \$6,461.

The board of review submitted its "Board of Review Notes on Appeal" postmarked on September 9, 2019 disclosing the total assessment for the subject of \$47,741 and which included the following comment:

See attached evidence. No Appellant evidence of purchase or condition of property. Tax Assessor evidence is persuasive – confirmation of assessment is warranted.

Contrary to the aforesaid statement, no other documentary evidence was provided until the virtual hearing. As set forth in the preliminary matters herein, during the virtual hearing, the board of review representative electronically sent the board of review's evidence to both the appellant and the Administrative Law Judge (ALJ) an offer of proof consisting of 14 pages (BOR #1 – BOR #14).

The subject's total assessment reflects a market value of \$143,151 or \$58.48 per square foot of living area, land included, when using the 2018 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

Appearing at hearing on behalf of the Kane County Board of Review was board member, Michelle Abell, a residential real estate appraiser. Initially, Abell discussed the photograph of the subject dwelling set forth as part of the property record card (BOR #4) and noted the printed date of October 5, 2015. From this, Abell surmised that the subject property appeared at that time to be in average condition.

In support of its contention of the correct assessment, the board of review submitted information (BOR #6) on four comparable sales located within .15 of a mile of the subject. Abell stated that location in Aurora is a very important factor as neighborhoods change. The comparables consist of either two-story or part two-story and part one-story dwellings that were built between 1900 and 1927. The comparables range in size from 1,232 to 2,494 square feet of living area. Each comparable has a basement, two comparables each have central air conditioning and each comparable has a garage ranging in size from 216 to 660 square feet of building area. The comparables sold from August 2015 to August 2017 for prices ranging from \$146,000 to \$216,500 or from \$58.54 to \$121.67 per square foot of living area, including land. Abell stated that but for comparable sale #3 which was way too small, the remaining comparables were suitable comparisons to the subject based on dwelling size, age and garage feature despite differences in sizes. Abell also opined that the comparables were probably in below average condition. These comparables had reported total assessments ranging from \$31,332 to \$49,043, three of which reflect market values significantly below their respective 2015, 2016 and 2017 purchase prices.

Abell also discussed some additional research she had performed within a one-mile radius on three-flat and four-flat buildings finding nine sales that occurred from January 1, 2017 to December 31, 2018. Abell found the sales ranged from a low of \$140,000 to \$189,400. The low-end sale represented a short sale from June 2017 that was in very poor condition. From this, Abell argued that BOR #6 reflects a "pretty good" depiction of area sales similar to the subject's market value as reflected by its assessment. Abell did state that the presented comparables "could be more livable than the subject is."

As to the appellant's request for a reduced assessment, Abell argued the request fails to reflect 2018 area market values, even for buildings that are in really poor condition. Abell argued the appellant's assessment reduction request is more comparable to market values in 2015 or prior for properties that sold for \$20,000 to \$50,000 that needed a lot of work.

Upon cross-examination and while maintaining that the 2015 photograph of the subject (BOR #4) appears to reflect a dwelling in average condition, Abell agreed the photograph depicts a board over the bottom portion of the front door, rotten steps and a deteriorated railing supported by a four-by-four on the left-hand side. She further acknowledged the definitions of average condition will vary from person to person. Upon additional questioning, Abell had no knowledge if any of the four comparable sales on BOR #6 were vacant dwellings and for how long they had been vacant.

While one of the sales Abell had discovered was in poor condition, she had never been inside the dwelling and had only viewed interior photographs from the MLS (Multiple Listing Service). Abell, however, had no information on the foundation, lack of interior support structure, lack of a sewer system and/or not being connected to utilities for this property.

Upon further questioning, Abell stated the 2017 tax year assessment of the subject parcel reflected a total assessment of \$6,461. She indicated that the township assessor has a practice of giving a one- or two-year reduction to properties like the subject that are in poor condition thus allowing time for the owner to work on the property. Assessment records for the subject reflect increases from tax year 2015 which was \$5,000, 2016 which was \$5,219 to 2017 which was \$6,461 before the increase issued for 2018 to \$47,471. While not intimately familiar with the costs associated with rehabbing a property, Abell stated "it costs a lot."

Upon examination, Abell stated that the subject's assessment was raised despite its condition from the previous three years of low total assessments because there are area buildings in poor condition that are selling for far more. Abell is only familiar with sales that appear on the MLS; she is not familiar with any sales that may have occurred that were not on MLS. When questioned about the subject's estimated market value being raised from about \$20,000 to about \$120,000 in one tax year, Abell acknowledged that would only tend to occur when the property has been rehabbed.

The ALJ asked Abell what she knew of the condition of the interior and foundation of board of review comparable sale #2. She had no knowledge of the interior condition or foundation of the property. Abell was of the opinion that the subject and board of review sale #2 appear to be in similar exterior condition; she regularly sees deferred maintenance issues on the exterior of 100 year old homes related to settling and similar issues. Abell agreed the photograph of sale #2 does not depict any wooden post propping up the front door overhang or similar issues that were seen with the board of review's photo of the subject on the property record card (BOR #4).

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

In rebuttal during the virtual hearing, the appellant's evidentiary photographs were shown on the video screen and the appellant described each. The first photograph depicts roof problems with a wrinkled covering. The next photo depicts the boarded-up windows on the rear wall of the structure. The next three photos show not only boarded-up windows but also where the rot was at the bottom of the rear exterior wall. The next two photographs depict new interior framing that has been installed. The following photo depicts the original siding that is variegated and has all the granules worn off and Wetter testified is not an easy fix in a historic district where it

cannot be covered with vinyl or aluminum siding or similar material. The photo depicting home wrap is where Wetter sealed the rear wall. The next photo shows deterioration of the building and a broken window. The next photo depicts broken steps. Two photos in the basement depict cribbing consisting of 6 by 6 oak beams installed in order to hold up the building along with additional metal supports that were installed to support the building after the joystick masonry flooring was removed. The final photograph depicts a wooden rafter/support beam where animals living in the building had chewed through the framing and supports.

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 record evidence in this proceeding supports that a reduction in the subject's assessment is warranted.

The appellant submitted minimal evidence related to the original investment cost of the subject property (recent purchase price/foreclosure data) but provided detailed photographic evidence and testimony related to the condition of the subject structure as of tax year 2018 along with some costs of materials and apparent sweat equity invested in the property in support of the overvaluation claim. For its position, the board of review submitted comparable sales data to support the subject's current assessment.

The Property Tax Appeal Board finds the only substantive evidence of market value to be the board of review comparable sales. However, the Board finds each of the comparables appear to be habitable structures and there was no evidence of foundation and/or condition issues that would make these properties similar in condition to the subject dwelling as of the assessment date. Additionally, as noted by the board of review representative, board of review sale #3 is significantly smaller than the subject dwelling and would be given less weight for this reason alone. Board of review sale #1 has a similar date of purchase as the subject which likewise is less likely be reflective of market value as of the 2018 assessment date. Board of review sale #4 appears to be a high-end outlier. As noted previously in this decision, but for sale #2, the total assessments of three of the board of review comparables fail to reflect their recent purchase prices. Based on its sale price, size, age and some other features, board of review comparable #2 is arguably the property that may be most similar to the subject although the board of review was wholly unfamiliar with this property's interior condition and/or foundation to make it a reasonable comparable for consideration.

Where an appellant contends the assessment of the subject property is excessive and not reflective of its market value, the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the evidence in the record supports a reduction in the subject's assessment on the grounds of overvaluation. The Board finds that the board of review evidence depicts the subject property to have an estimated market value based on its assessment of \$58.48 per square foot of living area, including land, which is nearly identical to board of review comparable sale #2 which sold in April 2016 for \$146,000 or \$58.54 per square

foot of living area, including land. While this comparable is located in close proximity to the subject and is of similar design, age and dwelling size, based on this record the Board finds that the condition of this dwelling is superior to the subject dwelling. The Board finds there is no evidence that the interior and/or foundation of board of review sale #2 is in any manner similar to the subject property as depicted in the interior photographs and detailed testimony provided by Wetter. Thus, after this analysis, the Board finds that the subject property's market value should be below the \$146,000 purchase price of board of review comparable sale #2.

The next problem posed is what evidence of value exists in the record. In summary, the appellant in an overvaluation appeal is obligated to provide sufficient market value evidence for the Property Tax Appeal Board to make a determination. 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). Allocating the appellant's \$110,000 purchase price across the ten properties purchased theoretically presents an \$11,000 purchase price in 2015. However, given the "allocated" and dated nature of the subject's sale price, this evidence alone is insufficient in this matter. As to construction costs, the appellant since purchase has expended approximately \$6,000 to \$7,000 in materials to rehab the subject dwelling as set forth in Wetter's testimony. Unfortunately, the appellant failed to provide any clear evidence as to the amount of time he or others have expended in the rehabilitation of this dwelling or, more precisely, the value of this labor during the rehab project (see "Recent Construction" requirements of the Residential Appeal petition). Thus, no specific value exists in the record for that labor, but the Board finds it must be accounted for within this determination. To best support a market value determination, appellant Wetter should have provided an appraisal or other substantive market value evidence for the subject property. Nevertheless, the Board must make a determination on the record presented herein.

In the final analysis, the record before the Board reflects that for tax year 2017 the subject property had a total assessment of \$6,461. The Board finds this prior year's assessment should be increased to account for the additional investment of labor and materials in the subject property for tax year 2018. Based on this record and after considering all of the condition issues related to the subject dwelling, the Board finds the subject's assessment depicting an estimated market value of \$143,151 or \$58.48 per square foot of living area, land included, is not reflective of the 2018 market value of this property 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.



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 21, 2021



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

Craig Wetter
238 W. Downer Place
Aurora, IL 60506

COUNTY

Kane County Board of Review
Kane County Government Center
719 Batavia Ave., Bldg. C, 3rd Fl.
Geneva, IL 60134