



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

APPELLANT: Robert & Vicki Baughman
DOCKET NO.: 18-03808.001-R-1
PARCEL NO.: 02-36-106-006

The parties of record before the Property Tax Appeal Board are Robert & Vicki Baughman, the appellants, by attorney Jessica Hill-Magiera, Attorney at Law in Lake Zurich; and the Kendall County Board of Review.

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

LAND: \$12,667
IMPR.: \$20,419
TOTAL: \$33,086

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 2018 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 one-story dwelling of brick and frame exterior construction with 1,995 square feet of living area. The dwelling was constructed in 2018. Features of the home include an unfinished basement, central air conditioning, a fireplace and a 594 square foot garage. The property has a 47,617 square foot site and is located in Yorkville, Oswego Township, Kendall County.

The appellants contend the assessment of the subject property is incorrect based on both a recent sale of the subject site and a contention of law. In support of the recent sale argument the appellants submitted evidence disclosing the subject site was purchased on October 20, 2017 for a price of \$38,000. The appellants completed Section IV-Recent Sale Data indicating the sale was not between family or related corporations, that the lot was sold by a realtor and was listed in the Multiple Listing Service (MLS). The appellant submitted the MLS sheet associated with

the sale of the subject site along with the settlement statement as further support for the arm's length nature of the transaction.

With respect to the contention of law argument, the appellants' counsel asserted that the board of review erroneously added a prorated assessment for the subject's improvements for the 2018 tax year and requested this assessment be removed. Citing 35 ILCS 200/9-160 counsel argued that the board of review's proportionate value of the subject's improvement was improper because the subject is an omitted property. Counsel indicated that interpretation of the statute requires an omitted property to be assessed in a subsequent year following issuance of the occupancy permit.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$33,086. The subject's assessment reflects a market value of \$98,823 or \$45.54 per square foot of living area, land included, when using the 2018 three year average median level of assessment for Kendall County of 33.48% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted the property record card for the subject including front and rear photographs and a sketch of the subject's floorplan, a Certificate of Occupancy dated January 4, 2019, a Request for Change from the Oswego Township Assessor dated November 1, 2018 and citations of Section 9-180 of the Illinois Property Tax Code.

The subject's property record card provided details of the subject improvements. The Certificate of Occupancy from Kendall County's Building and Zoning office provides details of inspections and dates associated with same. A final inspection for the subject is dated October 2, 2018. The Oswego Township Assessor submitted a Request for Change on November 1, 2018 to the Kendall County Board of Review. In that request, the Township Assessor states that the subject property "was erroneously assessed for the year 2018 at \$22,136." This assessed value reflected non-farmland only. The Township Assessor indicated that the reason for change was the "new construction, class 0040, prorated 82 days" and an assessed value of \$20,419 for the non-farm building was added to the original assessed amount. The combined land and building assessment for the subject totaled \$42,555. Based on this evidence, the board of review requested the subject's assessment be confirmed.

In rebuttal, the appellants' counsel argued that the board of review did not dispute the arm's length nature of the subject's recent sale. Counsel alleged that the board of review's Ten Day Notice issued November 1, 2018 arbitrarily increased the subject's assessment and that the timing appeared to be retaliatory. Counsel stated that the appellants objected to the assessment based on the claim that the dwelling was not occupied until 2019, "consistent with the Certificate of Occupancy." Counsel asserted that the board of review was attempting to "justify the erroneous increase in assessment" by stating the subject parcel was not being treated as an omitted property.

In response, the board of review submitted a Temporary Certificate of Occupancy dated October 2, 2018, the Kendall County Inspections sheet dated October 2, 2018 and written comments noting the subject's land assessment had been reduced to reflect the October 2017 sale price. The board of review stated that the issuance of the Temporary Occupancy permit indicated the

home was fit for occupancy on that date. The Township Assessor submitted a Request for Change to the board of review adding the subject improvement from October 2, 2018 through December 31, 2018. A Ten Day notice was then sent to the property owner as statute requires. By virtue of the request to add the subject improvement, the board of review affirmed that the subject's improvements were not omitted from the 2018 list of properties in Oswego Township.

Conclusion of Law

The appellants contend the market value of the subject property is not accurately reflected in its assessed valuation and raised a contention of law asserting the assessment of the subject property as established by the Kendall County Board of Review as erroneous. When market value or a contention of law is the basis of the appeal the burden of proof is a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). (See also 5 ILCS 100/10-15) 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 appellants did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

As an initial matter, the Property Tax Appeal Board notes that the Kendall County Board of Review reduced the subject's land assessment on February 5, 2019 as disclosed in the Notice of Final Decision. This reduction reflects the purchase price of the subject site of \$38,000. Based on this reduction, the appellants' recent sale argument with respect to the site purchase appears to be moot.

The appellants also argue a contention of law, claiming the prorated improvement assessment for the subject's new construction dwelling to be erroneous. The Board finds that a Temporary Occupancy Permit for the subject was issued on October 2, 2018 indicating the subject property was approved for occupancy. The Board further finds that despite the January 4, 2019 date of the Certificate of Occupancy, final inspections were completed in October 2018, the request for an assessment change by the Township Assessor was submitted in November 2018 and the property owners were notified by the Ten Day Notice of the assessment change.

Section 9-160 of the Property Tax Code (35 ILCS 200/9-160) which addresses valuation in years other than general assessment years, in counties with less than 3,000,000 inhabitants, is applicable and states in part:

The assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements.

The Board finds that the appellants purchased the subject site in October 2017, that a single family dwelling was constructed on the subject site in 2018 and that this improvement was determined to be habitable by the Kendall County Building and Zoning office after a final

inspection in October 2018. The Board finds that the Oswego Township Assessor requested a change in the subject's assessment in November 2018, adding the subject improvement.

Section 9-180 of the Property Tax Code (35 ILCS 200/9-180) is pertinent to this appeal and states in part:

“The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy for the intended customary use to December 31 of that year.”

Therefore, applying the provisions of the aforementioned sections of the Property Tax Code, the Board finds that the proportionate 2018 assessment for the subject's improvements from the October 2018 issuance of the temporary occupancy permit through the end of calendar year 2018 to be warranted and no change in the subject's improvement assessment is justified.

As a final point, the Board finds the appellants' assertion that the subject property should be assessed the subsequent year as omitted property to be misplaced.

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: February 16, 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

Robert & Vicki Baughman, by attorney:
Jessica Hill-Magiera
Attorney at Law
790 Harvest Drive
Lake Zurich, IL 60047

COUNTY

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