



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

APPELLANT: Elizabeth and Jeffrey Diver  
DOCKET NO.: 19-02699.001-R-1  
PARCEL NO.: 05-18-408-007

The parties of record before the Property Tax Appeal Board are Elizabeth and Jeffrey Diver, the appellants; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$26,510  
**IMPR.:** \$73,860  
**TOTAL:** \$100,370

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2019 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 split-level dwelling of frame and masonry exterior construction with 1,262 square feet of living area. The dwelling was constructed in 1957. Features of the home include a partially finished basement, central air conditioning, and a 1-car garage. The property has an 8,758 square foot site and is located in Wheaton, Milton Township, DuPage County.

One of the appellants, Jefferey Diver, appeared and testified before the Property Tax Appeal Board contending inequity in assessment with regard to the improvement as the basis of the appeal.<sup>1</sup> In support of this argument, the appellants submitted a grid analysis containing assessment information and sales data on ten comparable properties. The comparables are each

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<sup>1</sup> Although the appellant marked on the Residential Appeal form "Assessment equity" as the only basis of the appeal, the record contains sales data which was submitted by both parties. Consequently, the Bord will analyze this appeal based on market value (overvaluation) grounds in addition to equity in assessment (uniformity).

located on the same street as the subject and within the same assessment neighborhood code as the subject property. The comparables are improved with split-level dwellings each containing 1,262 square feet of living area. The dwellings are of frame and masonry exterior construction and each home was built in 1957. Features include partially finished basements, central air conditioning, and a 1-car garage. These properties have sites ranging in size from 8,654 to 8,802 square feet of land area. These comparables have improvement assessments ranging from \$56,800 to \$76,450 or from \$45.01 to \$60.58 per square foot of living area. Four comparables contained sales data which depicted the sales occurring from April 2016 to August 2018 for prices ranging from \$253,000 to \$304,000 or from \$200.48 to \$240.89 per square foot of living area, land included. Based on this evidence and testimony, the appellants requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$100,370. The subject's assessment reflects a market value of \$304,244 or \$241.08 per square foot of living area, land included, when using the 2019 three-year average median level of assessment for DuPage County of 32.99% as determined by the Illinois Department of Revenue. The subject has an improvement assessment of \$73,860 or \$58.53 per square foot of living area.

In support of its contention of the correct assessment, the board of review submitted through the township assessor information on ten comparable properties located within .93 of a mile from the subject and within the same assessment neighborhood code as the subject property. The board of review comparables #1 and #2 are the same properties as appellant's comparables #1 and #5, respectively. The comparables are improved with split-level dwellings of frame or frame and masonry exteriors that range in size from 1,262 to 1,630 square feet of living area. The dwellings were built from 1957 to 1959. Each home features a partially finished basement and a 1-car or a 2-car garage. Five comparables feature central air conditioning and five have one or two fireplaces. The comparables have improvement assessments ranging from \$73,780 to \$97,890 or from \$58.46 to \$61.49 per square foot of building area. The two comparables with sales data sold in April 2017 and August 2018 for prices of \$300,000 and \$304,000 or for \$237.72 and \$240.89 per square foot of living area, land included. The board of review also submitted a Multiple Listing Service (MLS) sheet associated with the sale of the subject property in February 2018 with attached photographs depicting the upgrades and amenities of the subject property.

In rebuttal, the appellants submitted a 4-page memorandum arguing that the board of review did not dispute that very similar homes on the subject's street have different improvement assessments. Appellant's further argued in rebuttal that three homes on the subject's block were assessed based on their average sale prices in 2017 and 2018, while eight homes on the same block were assessed based on some other criteria. The appellants contend that "... we do not challenge the Improvement Assessment (*sic*) of the subject property: (*sic*) we agree that it is the fair market value, based on the purchase price of the subject property in 2018." The issue the appellants contest is that some properties appear to have the improvements assessed based on sale prices while other improvement assessments on the same block are based on criteria other than their fair market value resulting in much lower improvement assessments.

Mr. Diver testified before the Property Tax Appeal Board that his home is one of the many nearly identical homes on Hazelton Avenue. Directly across the street for almost the length of a block is a school which is a “magnet for traffic.” To control traffic flow, the city has turned Hazelton Avenue into a one-way street. For this reason, Mr. Diver argued that all the homes along Hazelton Avenue are different from the similar style homes on the next block which are not adversely affected by the school traffic. Mr. Diver argued that when considering the homes on his block which are in the same condition as the subject dwelling, the only ones that had their assessments increased are the ones that sold in the year 2017 and 2018 and the increase in assessments reflected their sale prices. When questioned by the administrative law judge why one property in the appellant’s grid that sold in 2016 did not have their improvement assessment increased, the appellant admitted that he does not know the methodology utilized by the township assessor’s office.

Representing the board of review was Mr. Donald Whistler who called Milton Township Chief Residential Deputy Assessor, Mary Lopez, as a witness to testify regarding the evidence she prepared on behalf of the board of review. Ms. Lopez testified that she is very familiar with the subject neighborhood and the subject home. She argued that some residents prefer to be near or across the street from the school on Hazelton Avenue and the adjacent parks. In their market analysis, the township assessing officials have determined that the school on Hazelton Avenue neither increases nor decreases market values in the subject’s block compared to rest of the neighborhood. However, with respect to homes that have had improvements done such as the subject property, the assessor will treat those properties similarly as other homes that have also been updated. The renovations are typically reflected in higher sale prices and, predictably, higher improvement assessments. Ms. Lopez testified that in conducting mass appraisal, they typically look at multiple home sales in the same neighborhood with similar characteristics, and then calculate the median sale price which is used to adjust the assessments of other similar properties in the neighborhood taking into account adjustments for differences. As to the subject’s improvement assessment, Ms. Lopez testified that the subject is close to the median price per square foot of the ten homes identified in the board of review equity grid. Furthermore, Ms. Lopez noted that the MLS sheet associated with the sale of the subject property in February 2018 depicts the many upgrades and remodeling that the subject property underwent which supports the improvement assessment. Upon questioning by the administrative law judge, Ms. Lopez clarified that the assessing officials do not only look at the properties that sold, but also those properties for which improvement permits were taken out.

Based on this evidence and testimony, the board of review requested that the subject’s improvement assessments be confirmed.

On cross examination, Ms. Lopez acknowledged that not everyone takes out a permit when remodeling, and it is sometimes impossible to know the condition of many similar homes on the same block or neighborhood. If there is no other evidence of modifications to a home and the home does not sell thereby establishing a fair cash value, then there is no basis for which to increase the assessment of that property which accounts for varying improvement assessments among homes of similar characteristics. Additionally, Ms. Lopez pointed out that the board of review has presented eight comparables that have not sold which have improvement assessments higher than that of the subject.

### **Conclusion of Law**

The taxpayers contend unequal treatment in the subject's improvement assessment as a 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 did not meet this burden of proof and a reduction in the subject's improvement assessment is not warranted on the grounds of uniformity.

Initially, addressing the appellants' uniformity argument that similar homes in the subject's neighborhood appear to be assessed using different criteria, the Board finds this argument unsupported. Contrary to the appellants' argument that only the homes that recently sold had their improvement assessments increased to reflect the sale price, the board of review submitted eight comparables which did not recently sell and which have an overall improvement assessments and per square foot of living area assessments higher than that of the subject. Moreover, the assessing official testified that the criteria used when conducting a mass appraisal is to look at the conditions of similar homes based on recent renovations, permit applications, as well as recent sales and then determine a median assessment amount before making any adjustments for differences. The Board notes that the appellants expressly agree that the subject's improvement assessment does in fact reflect the subject's market value based on its recent sale price. To the extent that the appellants argue that some homes on the subject's block are underassessed, the Property Tax Appeal Board lacks jurisdiction in this appeal to make a determination regarding properties other than the subject property.

The parties submitted a total of eighteen equity comparables including two common comparables in support of their respective positions before the Property Tax Appeal Board. The Board gave less weight to board of review comparables #3, #4, #5, #6, #8, #9, and #10 which lack central air conditioning which is a feature of the subject property or were larger in dwelling size relative to the subject. The Board finds the best equity comparables in the record to be the appellants' comparables and the board of review comparables #1, #2, and #7 (which includes the parties' two common comparables). These best comparables in the record have improvement assessments ranging from \$56,800 to \$76,450 or from \$45.01 to \$60.58 per square foot of living area. The subject's improvement assessment of \$73,860 or \$58.53 per square foot of living area falls within the range established by the best equity comparables in this record. After considering any necessary adjustments to the comparables for differences from the subject, the Board finds that the appellants did not demonstrate by clear and convincing evidence that the subject is inequitably assessed. Therefore, the Board finds that the subject's improvement assessment is supported, and no reduction is warranted on the principles of uniformity.

Lastly, the constitutional provision for uniformity of taxation and valuation does not require mathematical equality. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960). Although the best comparables in the record disclosed that properties located in the same area are not assessed at identical levels, all that the

constitution requires is a practical uniformity which appears to exist on the basis of the documentary and testimonial evidence.

The record also contains comparables submitted by both parties containing sales data. 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 does not support a reduction in the subject's assessment on the grounds of overvaluation.

The record contains a total of four comparable properties with sales data including the two common comparables. These properties are virtually identical to the subject property in location, age, lot size, dwelling size and most features. The Board gave less weight to the comparables with sale dates in 2016 and 2017 based on these sales occurring 20 months or longer from the January 1, 2019 assessment date in question and therefore are less likely to reflect the subject's market value as of the lien date. Only one comparable sold proximate in time to the assessment date at issue. This comparable sold in August 2018 for a price of \$304,000 or \$240.89 per square foot of living area, land included. The subject's assessment reflects a market value of \$304,244 or \$241.08 per square foot of living area, including land, which is nearly identical to the sale price of the best comparable sale in this record both in terms of overall value and on a per square foot basis. The Board finds that on this record, the subject's assessment is supported, and no reduction is warranted on the basis of overvaluation.

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: June 21, 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

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