



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

APPELLANT: Ed Bouvier
DOCKET NO.: 19-05792.001-R-1 through 19-05792.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Ed Bouvier, the appellant, by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
19-05792.001-R-1	05-07-411-012	13,700	62,120	\$75,820
19-05792.002-R-1	05-07-411-013	13,600	0	\$13,600

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from decisions 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 is improved with a 1.5-story dwelling of frame construction with 2,627 square feet of living area. The dwelling was constructed in 1937. Features of the home include a full unfinished basement, central air conditioning, and a detached 840 square foot garage. The subject property consists of two parcels totaling 16,082 square feet of land area which is located in Wheaton, Milton Township, DuPage County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant partially completed Section IV – Recent Sale Data of the Residential Appeal petition stating that the subject property was purchased on May 24, 2018 for a price of \$268,300. The appellant further stated that the sale was not a transfer between family members or related corporations, but that the subject property was not advertised for sale.

The appellant submitted a copy of a Master Statement for the purchase, which depicts that an owner's title insurance policy for \$268,300 was purchased, the parties were represented by their own counsel, transfer taxes on the purchase price were paid, and no commissions were paid.

The appellant also submitted and a copy of an unsigned and undated purchase contract for \$260,000. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$89,424, which would reflect a market value of \$268,299 or \$102.13 per square foot of living area, including land, at the statutory level of assessment of 33.33%.

The board of review submitted two sets of "Board of Review Notes on Appeal" disclosing the total combined assessment for the subject of \$145,410. The subject's assessment reflects a market value of \$440,770 or \$167.78 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.

In support of its contention of the correct assessment the board of review submitted a letter of the township assessor, together with copies of the PTAX-203 Illinois Real Estate Transfer Declaration (Exhibit #1), the same Master Statement submitted by the appellant (Exhibit #2), and a building permit dated August 3, 2018 setting forth an improvement cost of \$7,500 for construction of an 840 square foot garage with a "Fieldwork Complete" date of July 25, 2019 (Exhibit #3). The township assessor argued that the documentation shows that the sale was not an arm's length transaction because the subject property was not advertised for sale and no commissions were paid. The township assessor further contends that the May 2018 sale price did not include the value of the garage improvement, which was built after the appellant's purchase.

The board of review did not provide any market value evidence in support of its assessed valuation of the subject property.

Based upon this evidence, the board of review requested confirmation of the subject property's assessment.

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 appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board is to determine the correct assessment of any parcel of real property which is the subject of an appeal, based upon the facts, evidence, exhibits, and briefs submitted to or elicited by the Board. 86 Ill.Admin.Code §1910.10(b). The Board is to make a decision in each appeal or case appealed to it, the decision shall be based upon equity and the weight of evidence and shall be binding upon the appellant and officials of government. 35 ILCS 200/16-185. The Board is not to afford *prima facie* correctness to the decision of the board of review. Western Illinois Power Co-op. v. Property Tax Appeal Board, 29 Ill. App. 3d 16, 23 (4th Dist. 1975). A taxpayer seeking

review before the Board from a decision of the board of review does not have the burden of overcoming any presumption that the assessed value was correct. Mead v. Board of Review of McHenry County, 143 Ill. App. 3d 1088, 1094 (2d Dist. 1986).

When market value is the basis of the appeal 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, 1042 (3d Dist. 2002). The Board gives little weight to the assessor's argument concerning the inability to use the sale of the subject property within the sales ratio study performed by the assessing officials due to the fact the subject property was not advertised. The manner in which an assessing official arrives at an assessment determination is a different process than the question on appeal whether the assessment of the subject property is appropriately reflective of market value. The courts have stated that where there is credible sales evidence the sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2d Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. Furthermore, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach.

The issue before the Board is the determination of the market value for the subject property as of January 1, 2019, for *ad valorem* tax purpose. The appellant submitted evidence of the subject's 2018 purchase price when seeking a decrease in the subject's assessment, whereas the board of review argued that the subject property was not advertised for sale, the sale was not used in the sales ratio study, and a building permit was issued subsequent to the sale for construction of a garage. On this record, the Board has given little weight to the building permit since the "Fieldwork Complete" date is set forth as July 25, 2019, and more importantly, the board of review wholly failed to provide a copy of the subject's property record card as of January 1, 2019 which would display whether or not the new garage was assessed/included/completed as an improvement as of the assessment date at issue. See 86 Ill.Admin.Code §1910.40(a). As this record stands, the garage may not have been completed until July 2019, and then perhaps assessed as of January 1, 2020. In the absence of the subject's property record card, all of these issues are unresolved by the documentary submission of the board of review in this appeal.

The Board finds the best and only evidence of market value on this record to be the purchase of the subject property in May 2018 for a price of \$268,300. The appellant submitted evidence to show that the sale achieved several of the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the Residential Appeal petition disclosing the parties to the transaction were not related. In further support of the transaction, the appellant submitted a copy of the Master Statement for the sale, which was the same document as the board of review's Exhibit #2, showing the purchase of an owner's title insurance policy for the purchase price, representation of the parties by their own counsel, and payment of transfer taxes on the purchase price.

In conclusion, the Board finds the purchase price of \$268,300 is below the market value reflected by the combined assessment of \$440,770. The Board finds the board of review did not present sufficient evidence to challenge the arm's length nature of the transaction or to refute the contention

that the purchase price was reflective of market value. Based on this record the Board finds the subject property had a market value of \$268,300 as of January 1, 2019. Since market value has been determined the 2019 three year average median level of assessment for DuPage County of 32.99% shall apply. 86 Ill.Admin.Code §1910.50(c)(1). Consequently, the Board finds that a reduction in the subject's assessment commensurate with the purchase price is justified.¹

¹ The Board recognizes that the assessment practice in DuPage County is to round to the nearest ten in assessment figures.

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 15, 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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