



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

APPELLANT: Michael B. Frobouck  
DOCKET NO.: 19-07859.001-R-1  
PARCEL NO.: 03-34-302-076

The parties of record before the Property Tax Appeal Board are Michael B. Frobouck, the appellant, 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:** \$31,020  
**IMPR.:** \$17,990  
**TOTAL:** \$49,010

Subject only to the State multiplier as applicable.

**Jurisdictional Issue**

The appellant timely filed the appeal, postmarked on April 28, 2020, from a decision of the DuPage County Board of Review, dated March 31, 2020, pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2019 tax year.

The decision of the DuPage County Board of Review provided that the assessment of the subject parcel was reduced to \$49,010. The document further stated, "The Board [of Review] revised the assessment to concur with a recommendation by the township assessor."

The lower portion of the Final Decision states, in pertinent part:

**Unless you or your authorized agent signed a stipulation and waiver of appeal agreement**, the decision of the Board of Review may be appealed if any taxpayer, or any taxing body that has interest in the assessment, files with The Property Tax Appeal Board [PTAB] of the State of Illinois within 30 days of this notice, which is April 30, 2020. [Emphasis in original].

By letter dated December 24, 2020 issued by the PTAB, the DuPage County Board of Review was granted 90 days to respond to this pending appeal. Pursuant to the PTAB's procedural rules, "The Board of Review Notes on Appeal and all written and documentary evidence supporting the board of review's position must be submitted to the Property Tax Appeal Board within 90

days after the date of the notice of the filing of an appeal **unless the board of review objects to the jurisdiction of the Property Tax Appeal Board over the assessment appeal.**" (86 Ill.Admin.Code Sec. 1910.40(a)) [Emphasis added.].

The documentary evidence provided by the board of review consists of a copy of the 2019 tax year Stipulation for the subject parcel executed by the appellant on November 5, 2019 and executed by an Addison Township Official on October 30, 2019 providing for a reduction for the subject parcel from \$52,740 to \$49,010. The documentation also included a second Stipulation executed for the appellant's adjacent parcel containing the appellant's residence, along with a Parcel History Report and a copy of the property record card for the subject parcel.

The appellant initially testified under oath that he did not sign the Stipulation with the township assessor's office. However, upon further examination of the document, the appellant acknowledged that he did in fact sign the 2019 Stipulation. When asked why he filed an appeal after having signed the Stipulation, the appellant asserted that the assessment was simply too high as the lot is an "unbuildable" flag lot and although the property has been offered for sale in the past, there have been no buyers for the subject parcel. He further contended that he did not understand the legal implications of the Stipulation and was taken advantage of by the township personnel who presented the Stipulation to him.

The PTAB's procedural rules at Section 1910.40(b) (86 Ill.Admin.Code Sec. 1910.40(b)) sets forth a specific process for a board of review to object to jurisdiction as follows:

If the board of review objects to the Board's jurisdiction, it **must** submit a written request for dismissal of the petition prior to the submission of the Board of Review Notes on Appeal and accompanying documentation. The request for dismissal **must** set forth the basis of the board of review's objections to the Property Tax Appeal Board's jurisdiction over the appeal. In these cases, the Property Tax Appeal Board shall transmit a copy of the request for dismissal to the contesting party and secure a written response to the request for dismissal from the contesting party within 30 days after the date of the notice of the filing of the motion to dismiss. A copy of the response shall be transmitted to the board of review. Upon receipt of the request for dismissal and the response, the Property Tax Appeal Board shall issue a ruling determining if it has jurisdiction in the matter.

Rather than seek dismissal for lack of jurisdiction, on March 22, 2021, the DuPage County Board of Review timely postmarked its "Board of Review – Notes on Appeal" and evidence concerning this appeal. Therefore, the board of review did not challenge jurisdiction as provided for in Section 1910.40(b) of the PTAB's procedural rules and this matter proceeded to hearing in accordance with the request of the appellant.

Based on the foregoing evidentiary record, particularly in light of the failure of the DuPage County Board of Review to timely seek dismissal of this appeal nor to seek dismissal at the

hearing, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.<sup>1</sup>

### **Findings of Fact**

The subject parcel of approximately 48, 259 square feet of land area is improved with several outbuildings. Namely, a metal shed containing 1,078 square feet of building area, an open metal carport containing approximately 1,376 square feet and an enclosed porch of 360 square feet. The subject parcel is a flag-shaped lot which is adjacent to the appellant's residential parcel that is improved with his home and identified as parcel number 03-34-302-056. The subject property is located in Addison, Addison Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. With regard to the subject parcel, the appellant asserted the parcel was unconventional in size, has a location with a lack of privacy and the cost to bring utilities to the parcel would be substantial along with the necessary demolition costs for the existing structures. An aerial map was included depicting the location of the subject parcel and neighboring parcels, including a nearby industrial property. The appellant contends that due to the lack of similar properties that have sold or been listed for sale, the parcel is very difficult to value. In addition, there is heavy traffic on the street that fronts this parcel and there is an industrial area across the street from the subject making it undesirable for residential development.

In further support, the appellant's appeal included a letter from realtor Fred Nelson, although Nelson was not brought to the hearing for testimony. In summary, Nelson's letter opined that the subject parcel is difficult to value and prior efforts at listing the property have not resulted in a sale of the parcel. Without providing any specific comparable sales data or other basis to support his opinion, Nelson asserted that the value of the subject parcel would be approximately \$65,000.

In further support of the overvaluation argument, the appellant submitted limited information on four comparable properties consisting of one expired listing and three sales. The comparable parcels are located up to 4-miles from the subject property. The parcels range in size from 11,766 to 37,525 square feet of land area. Only comparable #1 is improved with an older dwelling of frame construction containing 1,200 square feet of living area along with a one-car garage. Comparable #2 depicts a listing for \$35,000 or \$2.97 per square foot of land area which was taken off the market in April 2020. Comparables #1, #3 and #4 depict sales prices that occurred from October 2012 to October 2019 for prices ranging from \$1.17 to \$2.79 per square foot of land area (including improvements for comparable #1 only).

Based on this evidence and argument, the appellant requested a total reduced assessment of \$22,499 which would reflect a market value of approximately \$67,504 when using the statutory level of assessment of 33.33%.

---

<sup>1</sup> Nothing herein should be viewed to condone the conduct of either party by the PTAB. The appellant's execution of a stipulation waiving rights to pursue an appeal before PTAB are contractual in nature and the DuPage County Board of Review has an obligation to abide by procedural rules to properly challenge jurisdiction before the PTAB.

On cross-examination, the appellant was asked whether the subject property is being offered on the market. The appellant testified that the asking price for both the subject parcel and the adjoining parcel containing the appellant's residence is \$600,599. The appellant argued that the 2022 asking price is much higher than the value would have been back in tax year 2019 given the fluctuations in the market at this time. The appellant further stated that in 2021 the parcels may have sold for \$750,000, but with the current 2022 market conditions, the appellant has been told he "would be lucky to get \$500,000."

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$49,010. The subject's assessment reflects a market value of \$148,560 or \$3.08 per square foot of land area, buildings 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.

At hearing, the board of review was represented by Don Whistler, member of the board of review. Donna Castiglia, Senior Residential Appraiser with the Addison Township Assessor's Office appeared as the witness. During the hearing, Whistler offered a color aerial photograph of the subject parcel that also depicts the appellant's residential lot with his home. Without objection, the color aerial photograph was admitted in the record as Board of Review Hearing Exhibit A.

Whistler asserted that Exhibit A depicts another flag lot (-057) which has been improved with a dwelling.

In response to the appeal, the board of review submitted information contending that the appellant executed a stipulation concerning the subject parcel and the adjacent parcel containing the appellant's residence in which the appellant agreed "not to appeal this stipulated assessment; and hereby waives his/her right to appeal to the Property Tax Appeal Board or the Courts for the years covered by this stipulation."

In response to the board of review's inference that the subject parcel as a flag lot could be built upon, the appellant testified that the neighboring flag-lot parcel (-057) that is improved with a dwelling was built in the 1950's and was allowable at the time. Current zoning requirements according to the appellant would no longer permit such construction on the subject flag lot.

### **Conclusion of Law**

As to the jurisdictional issue presented in this matter, the Property Tax Appeal Board finds that neither party to this appeal has 'clean hands.' The undisputed record reveals that the taxpayer/appellant executed a 2019 tax year Stipulation with the Addison Township Assessing Officials that provided, in pertinent part:

The appellant further agrees not to appeal this stipulated assessment; and hereby waives his/her right to appeal to the Property Tax Appeal Board or the Courts for the years covered by this stipulation.

This stipulation, signed by the appellant on November 5, 2019, reduced the assessment of the subject parcel from \$52,740 to \$49,010 for tax year 2019.

Next, the DuPage County Board of Review in essence adopted that stipulation within its Final Decision dated March 31, 2020 and stated that "unless you . . . signed a stipulation and waiver of appeal agreement" you may file an appeal within 30 days from the date of this notice. Thereafter, when notified of the pendency of this appeal, the DuPage County Board of Review failed to specifically seek dismissal for lack of jurisdiction based on the appellant's agreement with the township assessor as provided for within the applicable PTAB procedural rules. (See 86 Ill.Admin.Code Sec. 1910.40(b)).

As to the merits of the overvaluation argument, 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted a total of four listings or sales to support the overvaluation claim. The Board has given reduced weight to appellant's comparable #1 as the sale occurred in 2012, a date more remote in time to the valuation date at issue and thus less likely to be indicative of the subject's estimated market value as of January 1, 2019.

The remaining three vacant parcels present varying degrees of similarity to the subject in location and would each necessitate upward adjustments to account for the lack of any structures on these parcels. Comparables #2, #3 and #4 sold or were listed from April 2019 to April 2020 for prices ranging from \$1.16 to \$2.97 per square foot of land area. The subject's assessment reflects a market value of \$3.08 per square foot of land area, including improvements, which is above the range established by the best comparable sales in this record but appears to be justified to account for the outbuilding improvements on the subject parcel. Based on this evidence and after considering appropriate adjustments to account for the structures on the subject parcel, the Property Tax Appeal Board finds a reduction in the subject's assessment is not 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

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: January 17, 2023



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

Michael B. Frobouck  
1034 S. Ellsworth  
Addison, IL 60101

COUNTY

DuPage County Board of Review  
DuPage Center  
421 N. County Farm Road  
Wheaton, IL 60187