



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

APPELLANT: Michael MacPherson  
DOCKET NO.: 19-08410.001-R-1  
PARCEL NO.: 05-07-213-014

The parties of record before the Property Tax Appeal Board are Michael MacPherson, the appellant, by Greg Earl, Attorney at Law in Geneva; 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:** \$39,670  
**IMPR.:** \$144,900  
**TOTAL:** \$184,570

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant 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 two-story dwelling of frame exterior construction with 2,807 square feet of living area. The dwelling was constructed in 1943. Features of the home include an unfinished basement, central air conditioning and a garage containing approximately 726 square feet of building area. The property has a 26,773 square foot site and is located in Wheaton, Milton Township, DuPage County.

The appellant appeared through counsel before the Property Tax Appeal Board by virtual hearing, contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal of the subject property prepared by James Swerdon, a State of Illinois Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to provide testimony and be cross-examined regarding the appraisal methodology and the final

value conclusion. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$410,000 as of January 1, 2019.

Under the sales comparison approach the appraiser utilized three comparable sales located in Wheaton, approximately .27 to .37 of a mile from the subject property. The comparables have sites ranging in size from 20,038 to 25,700 square feet of land area. The comparables were described as improved with two-story, Tudor or Colonial style dwellings that ranged in size from 2,626 to 2,993 square feet of living area. The dwellings were of frame and brick exterior construction and ranged in age from 40 to 48 years old. Each comparable has a basement with two comparables having finished area, central air conditioning, and a two-car garage. The comparables sold from June to November 2016 for prices ranging from \$329,000 to \$450,000 or from \$125.29 to \$167.79 per square foot of living area, land included. The appraiser adjusted the comparables for differences from the subject property to arrive at adjusted sale prices ranging from \$358,460 to \$446,460. Using this data, the appraiser estimated the subject had an estimated value under the sales comparison approach of \$410,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$184,570. The subject's assessment reflects a market value of \$559,473 or \$199.31 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.

Representing the board of review was member Matthew Rasche. Rasche called Mary Cunningham as a witness.

As to the appellant's appraisal, the board of review submitted a brief from the Milton Township Assessor's Office critiquing the appraisal. The assessor also disclosed that the subject property was renovated with a 1<sup>st</sup> story/2<sup>nd</sup> story addition and an attached garage for an improvement cost of \$246,510. The original square footage was 1,640 before addition. The certificate of occupancy was issued December 18, 2012.

In support of its contention of the correct assessment the board of review through the township assessor submitted a grid analysis containing information on five comparable sales. The comparable properties were similar two-story dwellings that ranged in size from 2,208 to 2,954 square feet of living area. The comparables were built from 1978 to 1997. The comparables have sites ranging in size from 11,359 to 19,984 square feet of land area. The comparables had other features with varying degrees of similarity to the subject. The comparables sold from July 2016 to April 2019 for prices ranging from \$460,000 to \$665,500 or from \$202.17 to \$239.13 per square foot of living area, including land. Based on this evidence, the board of review requested that the assessment be confirmed.

Under cross examination, Cunningham testified that the township mass assesses and does not assess individual properties. Also, the prior three years 2016, 2017 and 2018 were used in the 2019 quadrennial reassessment.

### **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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$410,000 as of January 1, 2019. The Board finds the appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1<sup>st</sup> Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Based on this case law, the Board gives the conclusion of value contained in the appraisal no weight. The appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value. However, the Board will examine the raw sales data contained in this record, including the sales in the appellant's appraisal.

The Board finds the record contains eight comparable sales submitted by the parties in support of their respective positions. The Board gave less weight to the appraiser's comparables along with the board of review comparables #3 and #5 as these sales occurred from June 2016 to September 2017, which are dated and less likely to be indicative of fair market value as of the subject's January 1, 2019 assessment date.

The Board finds the best evidence of market value to be the remaining three comparable sales submitted by the board of review. The Board finds the remaining three comparables are more similar to the subject. These comparables have varying degrees of similarity when compared to the subject in location, design, dwelling size and some features. These comparables sold most proximate in time to the valuation date at issue of January 1, 2019. These similar properties sold from March 2018 to April 2019 for prices ranging from \$577,500 to \$665,500 or from \$210.87 to \$239.13 per square foot of living area including land. The subject's assessment reflects a market value of \$559,473 or \$199.31 per square foot of living area including land, which falls below the range established by the best comparables in this record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds

the subject's estimated market value as reflected by its assessment is supported and no reduction in the subject's assessment is warranted.

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:

October 19, 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

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