



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

APPELLANT: Michael Brabeck
DOCKET NO.: 20-01880.001-R-1 through 20-01880.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Michael Brabeck, the appellant, by attorney Scott Shudnow, of Shudnow & Shudnow, Ltd. in Chicago, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
20-01880.001-R-1	05-25-460-012	30,393	96,095	\$126,488
20-01880.002-R-1	05-25-460-013	253	0	\$253

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from decisions of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments for the 2020 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 two parcel property is improved with a two-story dwelling of frame and masonry exterior construction with 2,895 square feet of living area.¹ The dwelling was constructed in 2010. Features of the home include an unfinished walk-out basement, central air conditioning, a fireplace and an attached 651 square foot three-car garage. The golf course property has a combined 15,000 square foot site and is located in Elgin, Plato Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$337,500 as of January 1, 2019. The appraisal was prepared by Garry Nusinow, a Certified General Real Estate Appraiser.

¹ While the parties differ on the subject's dwelling size by 104 square feet, the Board finds the best evidence of dwelling size is contained in the subject's property record card supplied by the board of review.

The intended use of the appraisal report was to "to provide a basis for appeal of assessment placed against the property for *ad valorem* taxation by the Kane County Assessor's Office." Users of the report included the taxpayer of record and other authorized parties. The appraiser indicated that the search for comparables focused on closed sales similar to the subject and located within a one-mile radius of the subject property which sold between January 1, 2017 and March 31, 2019 and stated that the selected sales were "most similar to the subject in size, style, design, age, condition, etc."

In estimating the market value of the subject property, the appraiser developed the sales comparison approach to value using six comparable sales located from 0.04 to 1.01 miles from the subject property. The comparables have sites that range in size from 8,712 to 83,635 square feet of land area and are improved with two-story dwellings described as traditional, colonial or "dutch" colonial of average or average+ condition and ranging in size from 2,464 to 3,921 square feet of living area. The homes range in age from 1 to 30 years old. Each comparable has a basement, two with finished area, central air conditioning, one fireplace and a two-car or a three-car garage. The comparables sold from May 2017 to August 2018 for prices ranging from \$300,000 to \$395,000 or from \$99.46 to \$146.30 per square foot of living area, land included.

The appraiser adjusted comparable #2 for a cash transaction and comparable #6 for seller paid concessions. After these adjustments for sales and financing conditions, the appraiser adjusted the comparables for differences when compared to the subject in location, site size, view, age, condition, room count, basement finish and/or garages. After adjustments, the appraiser arrived at adjusted prices for the comparables ranging from \$313,000 to \$358,900 and thus derived an opinion of market value for the subject of \$337,500.

Based on this evidence, the appellant requested the subject's assessment be reduced to a combined total of \$112,500 which equates to a market value of approximately \$337,500 or \$116.58 per square foot of living area, land included, when applying the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review - Notes on Appeal" for each parcel disclosing the total combined assessment for the subject of \$126,741. The subject's assessment reflects a market value of \$380,375 or \$131.39 per square foot of living area, land included, when using the 2020 three year average median level of assessment for Kane County of 33.32% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted multiple pieces of sales data. In a cover letter from member Constantine "Dino" Konstans, there are Multiple Listing Service (MLS) printouts on four sales (BOR #1 through #4). There is also a two-page spreadsheet prepared by the township assessor with information on seven comparables sales.

First, based on the MLS data sheets, the Board gleans the following data on these properties set forth in BOR #1 through #4: the parcels range in size from .17 to .5205 of an acre of land area which are improved with two-story dwellings of brick or frame and brick exterior construction.

The homes range in size from 2,671 to 3,364 square feet of living area² and feature full basements, two of which are English-style. Features include central air conditioning, a fireplace and either a two-car or a three-car garage. The properties sold from May 2019 to November 2020 for prices ranging from \$373,000 to \$440,000 or from \$111.31 to \$149.76 per square foot of living area, including land.

Second, there are seven comparables presented through the township assessor. Assessor sale #1 is the same property as appraisal sale #2. These seven comparable sales are located from 0.19 to 0.73 of a mile from the subject property as well as in the subject's Bowes Creek development. The comparables are improved with two-story dwellings that range in size from 2,700 to 3,226 square feet of living area. The homes were built from 2008 to 2016. Each comparable has a basement, two with finished area and one of which is a walkout style. Features include central air conditioning and a garage ranging in size from 460 to 848 square feet of building area. Six comparables each have one fireplace. The comparables sold from February 2016 to August 2018 for prices ranging from \$377,500 to \$493,667 or from \$128.64 to \$168.59 per square foot of living area, land included.

The board of review, through the Plato Township Assessor, submitted written comments, a grid analysis with the appraisal comparables, a neighborhood analysis, the subject's property record card and aerial maps. Written comments describe the subject as located on a golf course. The township assessor addressed the appraiser's claim that the subject's development suffers from external obsolescence. The assessor stated that the Bowes Creek development has had 120 new homes sold in the past two years with 37 permits waiting to be completed. The assessor critiqued the appraisal comparables #1, #5 and #6 as being located outside of the subject's neighborhood and indicated that properties in the Cedar Grove neighborhood sell at a lower price per square foot than the subject's neighborhood. In support of this claim, the township assessor provided a neighborhood analysis comparing sales in the subject's Bowes Creek neighborhood to sales in the Cedar Grove neighborhood. Additionally, the township assessor submitted two aerial maps depicting the subject and proximity to both parties' comparable sales.

Based on this evidence, the board of review requested the subject's assessment be confirmed.

In rebuttal, the appellant's attorney argued that, at the time the document was prepared, a 2019 tax year appeal was still pending before the Property Tax Appeal Board. Counsel contended that, if a reduction were granted for 2019, the first year of the quadrennial assessment period, Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) should be applied to this owner-occupied residence. None of the suggested comparable sales presented by the assessing officials were discussed in the filing.

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

² The MLS data sheets for board of review sales #3 and #4 have unclear data on finished living area square footage for each home. The reported "above grade" area has been utilized by the Board in this analysis.

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 an appraisal while the board of review submitted a total of eleven comparable sales, one of which was common to both parties, for the Board's consideration.

As an initial matter and in response to the township assessor's criticisms, the Board finds that the appraisal comparables located outside of the subject's neighborhood were adjusted for location in the appraisal report.

However, the Property Tax Appeal Board has given less weight to the appraiser's opinion of market value for the subject due to the inclusion of comparable sales outside of the subject's Bowes Creek neighborhood. In this regard, the Board notes that while the appraiser specifically stated the search for comparables was focused on sales "located within a one mile radius of the subject property which sold between January 1, 2017 and March 31, 2019," two of the board of review comparable sales which met the appraiser's search criteria were excluded from the appraisal despite their similarities to the subject in location, age and other features without explanation in the report. Thus, the Board finds the selective nature of the comparable sales set forth in the appraisal report calls into question the credibility and reliability of the final value opinion on this record. The Property Tax Appeal Board will, however, consider the appraiser's raw sales data along with the sales presented by the assessing officials.

The Board has given reduced weight to appraisal sales #1, #4 and #6 along with the township assessor's comparables #2, #3 #4 and #7 based upon the dates of sale occurring in either 2016 or 2017, dates less proximate in time to the January 1, 2020 assessment date than other comparable sales in the record. In terms of raw sales data for analysis, the Board has given reduced weight to appraisal sale #5 which is located over a mile distant from the subject.

The Board finds the best evidence of market value to be the appraisal sales #2 and #3 along with board of review comparables #1 through #4 and township assessor comparables #1, #5 and #6, which includes the parties' common comparable. These eight comparables are similar to the subject in location, age, dwelling size and some features. Two of these best comparables have finished basements compared to the subject's unfinished basement suggesting downward adjustments to make them more equivalent to the subject. These best comparables sold from May 2018 to November 2020 for prices ranging from \$335,000 to \$440,000 or from \$111.31 to \$149.76 per square foot of living area, land included. The subject's combined assessment reflects a market value of \$380,375 or \$131.39 per square foot of living area, land included, which falls well within the range of the best comparable sales in this record. After considering adjustments to the best comparables for differences when compared to the subject, the Board finds a reduction in the subject's assessment is not 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: September 20, 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

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