



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

APPELLANT: Gregory Pec
DOCKET NO.: 20-05815.001-R-1
PARCEL NO.: 03-32-327-004

The parties of record before the Property Tax Appeal Board are Gregory Pec, the appellant, by attorney Jeffrey G. Hertz, of Sarnoff & Baccash in Chicago; and the Kendall 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 **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$36,545
IMPR.: \$82,055
TOTAL: \$118,600

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kendall County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment 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 parties appeared before the Property Tax Appeal Board on July 11, 2022 for a hearing pursuant to prior written notice dated May 6, 2022. Appearing on behalf of the appellant was attorney Jeffrey G. Hertz and appearing on behalf of the Kendall County Board of Review was Assistant State's Attorney James Webb, along with the board of review's witness Andy Nicoletti, Kendall County Supervisor of Assessments with a CIAO-M designation.

The subject property consists of a 2-story dwelling of frame exterior construction with 2,666 square feet of living area. The dwelling was constructed in 1987 and is approximately 33 years old. Features of the home include a full basement with finished area, central air conditioning, a fireplace, a 504 square foot attached garage, and a 600 square foot detached garage.¹ The

¹ Additional details regarding the subject property not reported by the appellant are found in the subject's property record card presented by the board of review.

property has an approximately 47,677 square foot, or 1.09 acre, site and is located in Oswego, Oswego Township, Kendall County.

The appellant's appeal is based on both a contention of law and overvaluation. The appellant submitted evidence disclosing the subject property was purchased on June 15, 2018 for a price of \$345,000. In Section IV – Recent Sale Data of the appeal petition, the appellant disclosed the subject property was purchased from Rodney and Jo Ellen Moss and was not a sale between family members or related corporations. The appellant further disclosed the subject property was advertised for sale through a realtor on the Multiple Listing Service for 4 days, was not sold due to foreclosure, and was not sold using a contract for deed. In support of the transaction, the appellant submitted a Real Estate Transfer Declaration and a Warranty Deed. The appeal petition also disclosed that the subject property is an owner-occupied residence.

The appellant submitted a brief asserting that the subject's 2019 assessment as determined by the board of review should be carried forward to the 2020 tax year. The appellant explained that the subject's 2019 assessment had been reduced by the board of review to \$115,000 to reflect the June 2018 purchase price. The appellant acknowledged the construction of an improvement at the subject property since the purchase and agreed that the addition of \$3,600 to the subject's 2020 assessment to reflect the new improvement was appropriate.² The appellant argued that the only properties in the subject's neighborhood with increased assessments from 2019 to 2020 were those for which the board of review granted reductions in 2019. The appellant presented documents obtained from the township assessor's office, including a spreadsheet of 2019 and 2020 assessments in the subject's neighborhood and a cover sheet from the township assessor's office. The spreadsheet depicts that only the subject and two other properties in the subject's neighborhood had increases in their assessments from 2019 to 2020. The cover sheet explains that the subject's assessment increased from 2019 to 2020 due to "temporary purchase price reduction expired" and the addition of a shed and that two other properties' assessments increased in 2020 due "2019 BOR decision reversed."³ The cover sheet also described one newly constructed property as being fully assessed in 2020 after being prorated the prior year.

At hearing, Hertz argued on behalf of the appellant that the subject's 2019 assessment should be carried forward to 2020 pursuant to Section 16-80 of the Property Tax Code (35 ILCS 200/16-80). Hertz asserted the board of review reduced the subject's 2019 assessed value to \$115,000 to reflect the June 2018 purchase price, which was an arms' length transaction and was not disputed by the board of review. Hertz further asserted the subject is an owner-occupied residence and the decision of the board of review was not reversed or modified on review. As depicted in the township assessor's documents presented by the appellant, Hertz argued that only three properties in the subject's neighborhood, including the subject, were reassessed from 2019 to 2020, namely, the three properties which received reductions from the board of review in 2019. Hertz contended that the board of review did not show substantial cause why the 2019 assessment should not be carried forward to the 2020 tax year as required pursuant to Section 16-

² At hearing, Nicoletti clarified that this new improvement is the subject's detached garage, which is shown in a sketch contained in the subject's property record card and in a photograph presented by the board of review.

³ At hearing, Hertz and Nicoletti both expressed their understanding that "2019 BOR decision reversed" meant that the township assessor did not carry the 2019 assessment determined by the board of review to the 2020 tax year.

80 of the Property Tax Code, and consequently, the subject's 2019 assessment should be carried forward to 2020 with the addition of \$3,600 for the newly constructed detached garage.

Based on this evidence and argument, the appellant requested a reduction in the subject's assessment to \$118,600, which would reflect the subject's 2019 tax year assessment plus the new improvement assessment of \$3,600 at the applicable township multiplier of 1.00.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$126,667. The subject's assessment reflects a market value of \$382,103 or \$143.32 per square foot of living area, land included, when using the 2020 three year average median level of assessment for Kendall County of 33.15% as determined by the Illinois Department of Revenue. Additionally, the board of review disclosed that 2019 was the first year of the general assessment cycle for the subject property.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales, together with property record cards for these comparables and a map depicting the locations of these comparables in relation to the subject. The comparables are located from "2 doors" to 0.75 of a mile from the subject and two comparables are located within the same subdivision as the subject. The parcels range in size from 52,153 to 58,938 square feet of land area and are improved with 2-story homes of frame or frame and brick exterior construction ranging in size from 2,561 to 2,775 square feet of living area. The dwellings range in age from 30 to 33 years old. Each home has a basement, central air conditioning, and a garage ranging in size from 462 to 708 square feet of building area. Two comparables each have a fireplace. The comparables sold from July 2019 to August 2020 for prices ranging from \$390,000 to \$400,000 or from \$143.24 to \$152.28 per square foot of living area, including land. At hearing, Nicoletti highlighted that two of these comparables are located within the subject's neighborhood and were sold after the appellant's purchase of the subject property.

The board of review also submitted a brief contending that the June 2018 sale of the subject is too remote in time to be indicative of market value as of the January 1, 2020 assessment date. The board of review further argued that the subject was not entitled to have its 2019 assessment carried forward to 2020 pursuant to Section 16-185 of the Property Tax Code, which requires such carryover only when a reduction is based on a decision of the Property Tax Appeal Board, not a decision of a board of review. (35 ILCS 200/16-185). At hearing, Webb reiterated these arguments on behalf of the board of review. Nicoletti acknowledged that the board of review reduced the subject's 2019 assessment to reflect the June 2018 purchase and that no further appeal or action had been taken to challenge the board of review's decision. Nicoletti testified that 2019 and 2020 are within the same general assessment period and agreed that the subject is an owner-occupied dwelling.

When asked by the Administrative Law Judge what changes were made from 2019 to 2020 to the subject's assessment, Nicoletti identified \$3,600 for the newly built detached garage and affirmed there had been no other physical changes to the subject property from 2019 to 2020. Nicoletti testified the additional increase in the subject's assessment was likely due to assessment uniformity action of the township assessor. Nicoletti further testified that the subject's subdivision had not been reassessed.

Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellant's argument is based in part on a contention of law regarding the interpretation and application of Section 16-80 of the Property Tax Code (35 ILCS 200/16-80). The standard of proof on a contention of law is a preponderance of the evidence. (See 5 ILCS 100/10-15). Section 16-80 provides as follows:

In any county with fewer than 3,000,000 inhabitants, if the board of review lowers the assessment of a particular parcel on which a residence occupied by the owner is situated, the reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless the taxpayer, county assessor, or other interested party can show substantial cause why the reduced assessment should not remain in effect, or unless the decision of the board is reversed or modified upon review.

35 ILCS 200/16-80. The Board finds that the subject property is an owner-occupied residence, the 2019 and 2020 tax years are within the same general assessment period, the subject's 2019 assessment was reduced by a decision of the board of review, and an equalization factor of 1.00 was applied in Oswego Township in 2020. Furthermore, the record shows that the board of review's decision for the 2019 tax year was not reversed or modified on review and there was no evidence the subject property recently sold establishing a different fair cash value. The record further shows that an improvement was built at the subject property after the appellant's purchase and such improvement has an assessed value of \$3,600, which should be added to the subject's assessment for the 2020 tax year.

Other than the addition of \$3,600 for the new improvement, the Board finds that the board of review did not present sufficient evidence to show substantial cause why the 2019 assessment should not remain in effect for the 2020 tax year. Although the board of review presented three comparable sales to support the subject's 2020 assessment, the board of review failed to overcome the plain language of Section 16-80 of the Property Tax Code.

Accordingly, the Board finds that the subject's 2019 assessment should be carried forward to the 2020 tax year pursuant to Section 16-80 of the Property Tax Code, with the addition of \$3,600 for the newly constructed detached garage. Based on the foregoing, a reduction in the subject's assessment to \$118,600 is justified.

Additionally, notwithstanding the dictates of Section 16-80 of the Property Tax Code, the record contains the June 2018 sale of the subject property presented by the appellant and three comparable sales submitted by the board of review to support their respective positions before the Board. 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 of review's comparables are similar to the subject in dwelling size, age, location, and features, but have larger lots than the subject, suggesting that downward adjustments to these comparables would be necessary to make them more similar to the subject. Moreover, the subject property lacked the second newly built garage when it sold in June 2018. The four sales in this record, including the sale of the subject, occurred from June 2018 to August 2020 for prices ranging from \$345,000 to \$400,000 or from \$129.41 to \$152.28 per square foot of living area, including land. The subject's assessment after reduction reflects a market value of \$357,768 or \$134.20 per square foot of living area, including land, which is within the range of the sales in this record and reflects the addition of the subject's second garage and the subject's smaller lot size as compared to the comparables. After considering appropriate adjustments to the comparables for differences from the subject and the addition of the subject's second garage, the Board finds on this record that the subject property, once reduced as an owner-occupied property pursuant to Section 16-80, is correctly valued for assessment purposes.

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:

August 23, 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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