



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

APPELLANT: David Kenzer
DOCKET NO.: 21-00423.001-R-1
PARCEL NO.: 16-10-413-007

The parties of record before the Property Tax Appeal Board are David Kenzer, the appellant, by attorney Robert Rosenfeld, of Robert H. Rosenfeld and Associates, LLC in Chicago; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$52,946
IMPR.: \$180,364
TOTAL: \$233,310

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Lake County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2021 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Preliminary Matter

The parties appeared via WebEx for a virtual hearing on October 17, 2022, before the Property Tax Appeal Board concerning 28 residential appeals located in Lake County which were filed by the law firm of Robert H. Rosenfeld and Associates, LLC. Appearing on behalf of the appellant was attorney Kyle Kamego from the law firm and appearing on behalf of the Lake County Board of Review was Jack Perry, Mass Appraisal Specialist for the Lake County Chief County Assessor and Lake County Board of Review. Neither party objected to the matter being conducted via a virtual hearing format.

Prior to the commencement of the appellant's case-in-chief and upon questioning by the Administrative Law Judge (ALJ), Attorney Kamego contended that each individual taxpayer/appellant had verbally requested that a hearing be held on the appeals. Counsel acknowledged that he would not be presenting any valuation witness for testimony. Instead,

Attorney Kamego would be reading the evidence into the record and also reported that either he or another attorney from the law firm had personally selected the comparable properties which were presented along with gathering any supporting evidence on behalf of the appellant. When questioned by the ALJ concerning counsel's qualifications in the field of real estate assessment and/or valuation in the selection of properties, Kamego responded that he is a licensed attorney, but has no qualifications within the field of real estate valuation. Attorney Kamego further explained that the law firm's fee was "100% contingent" on a favorable outcome or decision being issued by the Property Tax Appeal Board and, upon further questioning by the ALJ, opined that this circumstance "did not necessarily" impair his or the law firm's ability to select properties which were truly comparable to the subject.

The Board takes notice of its procedural rules providing specifically in Section 1910.70(f):

An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. When an attorney is a witness for the client, except as to merely formal matters, the attorney should leave the hearing of the appeal to other counsel. Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client. (86 Ill.Admin.Code §1910.70(f)).

Therefore, while counsel did not seek to testify before the Board, he also necessarily merely argued the merits of the appeal and reiterated data that was contained within the appeal petition without the ability to testify or answer any detailed questions about the evidence.

Findings of Fact

The subject property consists of a two-story dwelling of brick exterior construction with 4,344 square feet of living area. The dwelling was constructed in 2001 and is approximately 20 years old. Features of the home include an unfinished 1,376 square foot basement, central air conditioning, a fireplace and a 711 square foot garage. The property has an approximately 9,210 square foot site and is located in Highwood, Moraine Township, Lake County.

The appellant contends assessment inequity with respect to the improvement assessment as the basis of the appeal. In support of this argument, the appellant submitted information on four equity comparables located in the same assessment neighborhood code as the subject. The comparables are improved with two-story dwellings of brick exterior construction that range in size from 3,710 to 4,316 square feet of living area. The homes are either 21 or 22 years old. Each comparable has an unfinished basement ranging in size from 1,874 to 2,229 square feet of area, central air conditioning, one fireplace and a garage ranging in size from 588 to 671 square feet of building area. The comparables have improvement assessments that range from \$136,775 to \$151,904 or from \$35.20 to \$37.12 per square foot of living area. Based on this evidence, the appellant requested the subject's improvement assessment be reduced to \$158,447 or \$36.47 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$233,310. The subject property has an improvement assessment of \$180,364 or \$41.52 per square foot of living area. Mr. Perry testified that he had been licensed

in the State of Illinois as a real estate appraiser since 2015 and has been an employee of the Lake County Chief County Assessment Office and Board of Review of for the past 3½ years. The Board accepted Mr. Perry as an expert witness in the field of real estate valuation without objection.

In support of its contention of the correct assessment, the board of review submitted information on six equity comparables located in the same assessment neighborhood code as the subject property. The comparables are improved with two-story dwellings of brick or stucco and stone exterior construction that range in size from 3,986 to 4,287 square feet of living area. The homes were built from 1999 to 2001. Each comparable has an unfinished basement ranging in size from 1,334 to 2,168 square feet of area, central air conditioning, one fireplace and a garage ranging in size from 400 to 682 square feet of building area. The comparables have improvement assessments that range from \$173,745 to \$192,588 or from \$42.25 to \$46.10 per square foot of living area.

With respect to the appellant's evidence, Mr. Perry noted all of the comparables in the record have a smaller garage when compared to the subject, which was not refuted by the appellant's attorney. Based on this evidence, the board of review requested the subject's assessment be confirmed.

Conclusion of Law

The appellant contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments, for the assessment year in question, of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted ten equity comparables for the Board's consideration. The Board gives little weight to the comparables submitted by the appellant as the Board finds these properties are less similar to the subject in dwelling size and basement area compared to other properties in the record. In addition, Attorney Kamego or another attorney from the firm personally selected the comparable properties and completed the assessment grid analysis on behalf of the appellant. The record is clear that the attorneys do not hold any real estate licenses, designations, credentials, and/or other qualifications in the field of real estate valuation. Furthermore, given that the appellant's attorney's fee arrangement is contingent based upon the outcome of the appeal, the Board finds this contingency fee arrangement may impair counsel's objectivity when preparing valuation evidence. Thus, the Board disagrees with Attorney Kamego's opinion that the contingent nature of the fee arrangement "did not necessarily" impair his ability to select truly comparable properties for comparison to the subject as noted by its finding of their dissimilarity above. Here, the Board finds where the fee is contingent on the outcome of the appeal, meaning the fee is determined by the amount of reduction granted in the assessment appeal process, if any, the objectivity of the individual preparing the evidence and selecting

comparables may be called into question.¹ Therefore, in light of each of these aforementioned factors, including in particular the lack of similarity in characteristics, the Board finds the weight and credibility of the appellant's evidence has been diminished.

The Board gives less weight to the board of review comparables #1 and #2 which are less similar to the subject in dwelling size and basement area relative to other comparable properties in the record. The Board finds the best evidence of assessment equity to be comparables #3, #4, #5 and #6 submitted by the board of review which are more similar to the subject in location, age, design, dwelling size, basement size and most other features. These comparables have improvement assessments ranging from \$173,745 to \$190,357 or from \$42.25 to \$44.40 per square foot of living area. The subject's improvement assessment of \$180,364 or \$41.52 per square foot of living area falls within the range established by the most similar comparables contained in this record on an improvement assessment basis and slightly below the range on a per square foot basis. After considering appropriate adjustments to the best comparables for differences from the subject, the Board finds the appellant failed to demonstrate the subject property was inequitably assessed and no reduction in the subject's assessment is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclose that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject's improvements were inequitably assessed.

¹ Similar to an appraiser who prepares evidence on a contingency fee basis in valuation matters, "When an appraiser is paid through a contingent fee arrangement, the appraiser receives a direct financial interest in the dispute and becomes an interested party." Harris v. Am. Modern Homes Ins. Co., 571 F. Supp. 2d 1066, 1078 (E.D. Mo. 2008).

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: November 22, 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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