



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

APPELLANT: Scott R & Shelby L Drury Trusts
DOCKET NO.: 21-00535.001-R-1
PARCEL NO.: 16-10-413-009

The parties of record before the Property Tax Appeal Board are Scott R & Shelby L Drury Trusts, the appellants; 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: \$52,539
IMPR.: \$126,757
TOTAL: \$179,296

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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.

Findings of Fact

The subject property consists of a two-story dwelling of brick exterior construction with 3,008 square feet of living area. The dwelling was constructed in 2000. Features of the home include an unfinished 1,504 square foot basement, central air conditioning, two full baths and one half bath (10 plumbing fixtures), a fireplace and an attached 741 square foot garage. The property has an 8,940 square foot site and is located in Highwood, Moraine Township, Lake County.

Scott Drury appeared before the Property Tax Appeal Board on behalf of the appellants contending assessment inequity and contention of law as the bases of the appeal. The appellants submitted a brief and a grid analysis on eight equity comparables depicting only the per square-foot improvement assessment data along with the characteristics of the property.

In support of the inequity claim, Drury presented comparables that are located in the same neighborhood code and within .31 of a mile from the subject property. The comparables were

improved with two-story dwellings of brick, brick and dryvit or wood siding and brick exterior construction that range in size from 2,708 to 4,316 square feet of living area. The comparables were built in 2000 with comparable #1 having an effective age of 2007. Each comparable has a full or partial unfinished basement “total basement” ranging in size from 792 to 2,157 square feet of building area. Features of the dwelling include central air conditioning, and a detached or attached garage ranging in size from 420 to 671 square feet of building area. Seven comparables have a fireplace. Comparable #4 has two full baths and one half bath; comparables #1 through #3, #7 and #8 each have three full baths and one half bath; comparable 5 has four full baths; and comparable #6 has four full baths and one half bath (10 to 17 total fixtures). These comparables have improvement assessments that range from \$73,911 to \$153,507 or from \$19.89 to \$39.29 per square foot of living area.¹

In support of the contention of law argument, the appellants submitted a brief arguing the subject property is being assessed at a substantially greater proportion of its “building value” when compared to similar properties located within the taxing district, within the neighborhood and as a matter of equity. The appellants cite Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228, 229, 692 N.E.2d 260 (1998), the Illinois Supreme Court set forth the basic tenets of the Illinois Constitution’s uniformity clause requirement as it relates to the assessment and taxation of real estate. The appellants contend that the clear and convincing evidence establishes that in violation of the Illinois Constitution in that the subject property has been assessed at a substantially greater proportion of its value when compared to similar properties located within the taxing district.

In terms of similarity in “value, the appellants argue that the subject property and all the comparables are located within the Neighborhood of Highwood – TFS. The subject property has an improvement assessment of \$126,757 or \$42.14 per square foot of living area when compared to the appellants’ comparables which have improvement assessments that range from \$73,911 to \$153,507 or from \$19.89 to \$39.29 per square foot of living area. These properties are located less than one mile from the subject and in many instances have more full bathrooms and fixtures than the subject. Thus, the board of review’s assertions that larger homes should have a lower per square foot building assessment disregards the very purpose of calculating the per square foot building value.² Based on this evidence, the appellants requested that the subject’s improvement assessment be reduced to \$59,829 or \$19.89 per square foot of living area.

Under cross-examination, Drury testified that when the property was purchased in 2005 it had a finished basement, but it is no longer finished. The basement finish was removed. The basement has concrete floors, and some walls have drywall.

¹ Although the appellants did not provide the actual total improvement assessments for the subject or the comparables, this data is readily available through calculation multiplying the living area square footage by the per-square-foot improvement assessment that was presented.

² In summary, this principle is known as the economies of scale where, all other things being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. This principle is derived from construction costs and finds that the standard features of a dwelling (heating, cooling, sinks, etc.) do not expand exponentially increase the building cost when a larger dwelling is constructed.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$179,296. The subject property has an improvement assessment of \$126,757 or \$42.14 per square foot of living area. Appearing on behalf of the board of review was Jack Perry, Mass Appraisal Specialist.

Perry testified that appellants' comparable #1 was decreased by the Lake County Board of Review, to its December 2020 sale price, based on a foreclosure with condition issues. Perry also testified when you remove comparable #1 from the range, the range becomes much closer (i.e., \$35.20 to \$39.29 per square foot of living area). Perry stated that all appellants' comparables sans #4, are dissimilar to the subject in living area, being a minimum of 22% larger in living area than the subject. Perry then asserted that the board of review comparables are within 3% of the subject's living area in dwelling size and are thus more similar to the subject.

In support of its contention of the correct assessment, the board of review submitted information on five equity comparables that are located within 0.48 of a mile from the subject property and in the same neighborhood code as the subject. The comparables consist of two-story dwellings of brick or brick and stucco exterior construction. The homes range in size from 2,914 to 3,096 square feet of living area and were built from 1998 to 2003. Each comparable has a basement ranging in size from 666 to 1,548 square feet of building area, with comparable #2 having finished area consisting of an 845 square foot recreation room. Features of the dwellings include central air conditioning, a fireplace and a detached or attached garage ranging in size from 420 to 791 square feet of building area. Comparables #1 and #3 through #5 each have two full baths and one half-bath whereas comparable #2 has three full baths and one half-bath (8 to 14 fixtures). The comparables have improvement assessments that range from \$136,901 to \$143,412 or from \$44.56 to \$49.21 per square foot of living area. Based on this evidence, the board of review requested that the subject's assessment be confirmed.

Under cross examination, Perry testified that "he does not assess the properties, but typically on economies of scale, because the denominating number to get the price per square foot, take the assessment divided by the above grade living area. If the above grade living area, the denominator is larger, typically everything else being equal that means that the price per square foot is also going to be lower."

In written rebuttal, the appellants argued that the subject property is being assessed at a substantially greater proportion of its "building value" when compared to similar properties located within the taxing district, within the neighborhood and as a matter of equity. The appellants also argued that the board of review submitted a smattering of comparables and did not address the comparables submitted by the appellants. The appellants believe that the board of review's silence is a tacit admission of their position. The appellants claim that the board of review "cherry picked" its comparables. Given the clear lack of a uniform or equitable assessment process the subject's assessment should be reduced.

Conclusion of Law

The taxpayers contend assessment inequity and contention of law as the bases 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 Illinois courts have further noted that proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implied equality in the burden of taxation." (Apex Motor Fuel, 20 Ill. 2d at 401) The Court in Apex Motor Fuel further stated:

the rule of uniformity . . . prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation omitted].

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call . . . for 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 in its general operation. A practical uniformity, rather than an absolute one, is the test. [citation omitted]

Apex Motor Fuel, 20 Ill. 2d at 401. In this context, the court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill. 2d at 21. On this limited record and despite the absence of any market value evidence, the Board finds the appellants met the burden of proof to establish assessment inequity and a reduction in the subject's assessment is warranted based upon clear and convincing evidence.

The parties submitted a total of 13 suggested equity comparables for the Property Tax Appeal Board's consideration. The Board has given less weight to the appellants' comparables. The Board finds that appellants' comparable #1 received a reduction as it sold as a foreclosure and had poor condition issues based on testimony from the representative of the board of review, which was not refuted by the appellants. The Board finds that the appellants' comparables #2, #3, #5 through #8 are considerably larger in dwelling size when compared to the subject. The Board also gave less weight to the appellants' comparable #4 as this property has a part basement, part crawl-space foundation when compared to the subject's full basement and lacks central air conditioning which is a feature of the subject. The Board also gave less weight to board of review comparable #2 as this property has basement finish, a feature the subject lacks.

Thus, the Board finds the best evidence of assessment equity to the board of review comparables #1, #3, #4 and #5 which are most similar when compared to the subject in design, age, dwelling size and most features. These best equity comparables in the record present improvement

assessments that range from \$141,617 to \$143,412 or from \$44.67 to \$49.21 per square foot of living area. The subject's improvement assessment of \$126,757 or \$42.14 per square foot of living area falls below the range of the best comparables in the record which appears to be equitable after considering adjustments for differences between the subject and the best comparables in the record. Based on this record and after a thorough examination of the varying characteristics of the parties' best equity comparables, the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

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 disclosed 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 appellants have not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, 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:

December 19, 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

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