



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

APPELLANT: Eric & Amanda Hamilton
DOCKET NO.: 21-05526.001-R-1
PARCEL NO.: 12-03-227-036

The parties of record before the Property Tax Appeal Board are Eric & Amanda Hamilton, the appellants, by attorney James G. Militello III, of Prime Law Group, LLC in Woodstock; 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:

LAND: \$35,091
IMPR.: \$281,544
TOTAL: \$316,635

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Kane 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 November 17, 2022 for a hearing at the Kane County Government Center in Geneva pursuant to prior written notice dated September 7, 2022. Appearing on behalf of the appellants was attorney James G. Militello III, together with their witness, Brent Tarter, and appearing on behalf of the Kane County Board of Review was Michelle Abell, Kane County Board of Review Member.

The subject property consists of a 2-story dwelling of stucco exterior construction with 2,499 square feet of living area. The dwelling was constructed in 2016. Features of the home include a basement, central air conditioning, a fireplace and a 2-car garage. The property has an

approximately 6,534 square foot, or 0.15 acre, riverfront site and is located in Geneva, Geneva Township, Kane County.¹

This appeal is based on a contention of law. In support of this argument, the appellants submitted a brief contending the re-assessment of the subject property is in violation of the uniformity clause of the Illinois Constitution. The appellants submitted documentation of the subject's 2021 tax year assessment (Appellants' Exhibit B), which indicates that the 2020 tax year assessment was \$227,355, and that both the township assessor and the supervisor of assessments determined an assessment of \$227,335 for the 2021 tax year, which was equalized to \$230,879. The appellants disclosed that the subject sold in June 2021 for \$1,095,000 and argued that the subject's assessment was increased for the 2021 tax year to reflect this sale price. The appellants presented an excerpt from the 2021 Instructional Assembly for Kane County Township Assessors manual (Appellants' Exhibit C), asserting at pages 7 and 8 that this manual prohibits sale chasing.

The appellants also submitted a Proposed Value Change Notice issued by the Kane County Board of Review dated October 15, 2021 (Appellants' Exhibit A), which describes "Revalue, Upgrade/Remodel" as the reasons for a proposed increase in the subject's assessment to \$357,664. Subsequently, after an appeal, the board of review issued a Notice of Findings dated January 7, 2022 (Appellants' Exhibit D), which describes "Revalued Based On Evidence Submitted, For One (1) Year Only" as the reason for the change in the assessment of the subject by the board of review to \$316,635.

At hearing, Militello argued the re-assessment was in violation of the uniformity clause of the Illinois Constitution. Militello contended that the re-assessment appears to be sales chasing and noted that the township assessor was not present to testify regarding how the property was re-assessed.

Militello presented the appellants' witness, Tarter, who testified that he is a paralegal at Prime Law Group, LLC,² has worked on property tax appeals for 11 years, and is qualified as a CIAO (Certified Illinois Assessing Official). Tarter stated he has previously testified in Property Tax Appeal Board and board of review hearings.

Tarter testified that the documents presented by the appellants show that the supervisor of assessments calculated the subject's 2021 equalized assessment as \$230,879, which is its 2020 assessment plus the 2021 equalization factor.³ Tarter further testified that the appellants received notice of a change in the subject's assessment to \$357,664, which they appealed, resulting in a re-assessment of \$316,635, as shown in the 2021 tax year Notice of Findings of the board of review. Upon questioning by the Administrative Law Judge, Tarter stated that the subject home has had no additions or improvements since 2016.

¹ The subject property has a second parcel, 12-03-227-037, which contains only vacant land and is not contested. The appellants sought to include this second parcel in this appeal in rebuttal, which amendment to their appeal petition is untimely, and thus, the second parcel has not been added to this appeal.

² Prime Law Group, LLC is the law firm representing the appellants in this appeal.

³ Tarter misstated the 2021 equalization factor. The 2021 equalization factor of 1.01550 presented by the board of review results in the equalized assessment of \$230,879 described by Tarter.

Based on this evidence the appellants requested a reduction in the subject's assessment to \$230,879, which is the subject's 2020 tax year assessment plus the 2021 equalization factor of 1.01550.

The board of review submitted its "Board of Review Notes on Appeal" disclosing an assessment for the subject of \$316,635. The total assessment of the subject and the second parcel which is not a part of this appeal⁴ is \$320,535, which reflects a market value of \$961,701 or \$384.83 per square foot of living area, with both parcels of land included, when applying the statutory level of assessment of 33.33%. The board of review disclosed that 2019 was the first year of the general assessment cycle and that a factor of 1.01550 was applied in Geneva Township for the 2021 tax year.

In support of its contention of the correct assessment the board of review submitted a letter, signed by the township assessor and addressed to the board of review, contending that land in the subject's neighborhood is assessed on a site basis. The township assessor asserted that the subject home was built in 2016 for a total construction cost of \$485,000 with an estimated retail value of \$600,000 according to the permit; however, after the June 2021 sale, the township assessor viewed listing photographs of the interior of the subject home and determined that the subject home was undervalued for assessment purposes due to the interior condition of the subject home. Copies of the listing photographs were presented with the township assessor's letter.

At hearing, Abell argued that the township assessor became aware of new information regarding the subject property after it sold. Abell asserted that the township assessor uses a mass appraisal method to assess property, but also reviews new information to determine fair assessments. Abell stated that the township has a wide range of properties and information gleaned from sales assists assessing officials in determining fair assessments. Abell questioned why assessing officials may not use recent sale information whereas a property owner may seek a reduction based on a recent sale price.

Upon cross-examination, Abell acknowledged she had not viewed the subject property and had not prepared the evidence presented by the board of review. Abell stated she did not know whether the township assessor had inspected the property since its construction in 2016, but stated that the township assessor does not typically view the interior of a home after its construction. Abell clarified that the listing photographs were reviewed to determine whether the information being used to assess the subject property was correct.

Abell stated she did not know whether any other properties in the subject's neighborhood were also re-assessed in 2021 and acknowledged there was no evidence in the record regarding any such re-assessment of the subject's neighborhood. Upon questioning by the Administrative Law Judge, Abell contended that the township assessor generally considers other sales in the same neighborhood for assessment purposes, but acknowledged she did not know what sales or information may have been considered in re-assessing the subject property except for the listing photographs. Abell acknowledged that there is no evidence of any such sales or information in the record other than the subject's listing photographs.

⁴ The board of review disclosed the second parcel had an assessment of \$3,900 for the 2021 tax year.

Abell stated that the next quadrennial assessment cycle begins in 2023 and agreed that neighborhoods are to be revalued at that time. Abell agreed that in a non-general assessment year a property's assessment would be adjusted from the prior year only by the equalization factor absent other information.

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

In rebuttal, Tarter testified that based on his experience in property tax appeals, assessing officials may not use a sale price as a punitive measure to increase a property's assessment but property owners may seek a reduction based on a sale price. Militello argued that the Walsh case presented by the appellants (Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998)) requires assessing officials to wait until the general assessment year to re-assess properties.

Conclusion of Law

The appellants' argument is based on a contention of law regarding a violation of the uniformity clause of the Illinois Constitution. When a contention of law is raised, the burden of proof is a preponderance of the evidence. (See 5 ILCS 100/10-15). The standard of proof when asserting a lack of uniformity is clear and convincing evidence. Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 234, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998) (citing Kankakee County Bd. of Review v. Property Tax Appeal Bd., 131 Ill. 2d 1, 20, 544 N.E.2d 762, 136 Ill. Dec. 76 (Ill. 1989)). The Board finds the appellants did not meet either of these burdens of proof and a reduction in the subject's assessment is not warranted.

This appeal concerns the appellants' challenge to a re-assessment of property in a non-general assessment year by the board of review on its own motion pursuant to Section 16-30 of the Property Tax Code (35 ILCS 200/16-30). The Board finds that the board of review issued a Proposed Value Change Notice dated October 15, 2021 (Appellants' Exhibit A) to \$357,664 due to "Revalue, Upgrade/Remodel" and the board of review concluded an assessment for the subject of \$316,635 as described in the Notice of Findings dated January 7, 2022 (Appellants' Exhibit D) after an appeal. The Board further finds 2019 was the first year of the general assessment cycle and a factor of 1.01550 was applied for the 2021 tax year in Geneva Township.

Section 16-30 provides in relevant part that "the board of review may upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just." Furthermore, Section 16-55(e) of the Property Tax Code (35 ILCS 200/16-55) provides:

(e) The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of

other property in the assessment district prior to equalization by the board or the Department.

The Board finds that these statutes grant the board of review broad discretion and authority, by its own motion or by written complaint, in any year to review the assessment of any property, and revise and correct that assessment as appears to be just. However, the board of review's action may not result in the assessment of a property at a higher percentage of fair cash value than the other properties.

The cornerstone of uniform assessments is the fair cash value of the property and uniformity is achieved when all properties with similar fair cash values are assessed at a consistent level. Kankakee County Bd. of Review v. Illinois Prop. Tax Appeal Bd., 131 Ill. 2d 1, 16, 20-21, 544 N.E.2d 762, 136 Ill. Dec. 76 (Ill. 1989). The Illinois Constitution requires both uniformity in the level of taxation and in methodology.⁵ Assessing officials may not use a different basis to assess or revise the assessment of one property to achieve uniformity, such as a recent sale of that property. Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 236, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998).

The Board finds the evidence does not demonstrate that the subject's assessment was based on the sale price of the subject property. The parties agree that the subject property sold in June 2021 for \$1,095,000, which neither party challenged as an arm's length transaction nor questioned as reflective of the subject's market value. The total assessment for the subject and the second parcel reflects a market value of \$961,701 or \$384.83 per square foot of living area, with all land included, when applying the statutory level of assessment of 33.33%, which is significantly less than the sale price of \$1,095,000.

Abell asserted at hearing that the subject's assessment was revised and corrected based on the listing photographs which revealed new information regarding the subject home to the assessing officials. The appellants did not dispute this contention, but rather argued that the re-assessment was untimely as assessing officials could have inspected the subject property at any time after its construction in 2016 and there had been no changes to the subject property since its construction in 2016. This argument, however, ignores the fact that nothing in the Property Tax Code mandates that assessing officials be allowed interior access to properties within their jurisdiction.

More importantly, the appellants did not demonstrate that the subject's assessment is inequitable. The appellants did not present any evidence to show that properties in the subject's neighborhood or township are not uniformly assessed or that the board of review's action resulted in the assessment of the subject at a higher percentage of fair cash value than other properties in its neighborhood or township.

In the Walsh case relied upon by the appellants, the court found that properties in the township were not uniformly assessed (with sales-assessment ratios ranging from 7% to 68%), including the subject property (at 11.5%). Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 234-35, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998). Despite this lack of uniformity, the court held that the

⁵ Section 4 of Article IX of the Illinois Constitution provides that real estate taxes "shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill. Const., Art. IX, § 4(a).

board of review may not take action to adjust one property's assessed valuation to reflect 33% of its fair cash value by assessing it on a different basis (e.g., its recent sale price) from other properties in the township, thereby resulting in an assessment of that property at a greater percentage of fair cash value than other properties in the township as was contended by the appellant. Id. at 235-36. The Walsh case did not involve a re-assessment to reflect the property's condition or other features or amenities not previously assessed or known by the assessing officials.

Consequently, the Board finds the assessment of the subject property by the board of review was within its authority under Section 16-30 of the Property Tax Code and did not violate the uniformity clause of the Illinois Constitution. Based on this record, the Board finds a reduction in the subject's assessment is not justified.

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

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: January 17, 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

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