



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

APPELLANT: Nancy Harper
DOCKET NO.: 21-05534.001-R-2
PARCEL NO.: 12-10-401-024

The parties of record before the Property Tax Appeal Board are Nancy Harper, the appellant, by attorney Nora Devine, of The Devine Law Group, LLC in Northfield; and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$49,741
IMPR.: \$120,259
TOTAL: \$170,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant 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 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 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 appellant was attorney Nora Devine, 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 1.5-story dwelling of frame exterior construction with 2,119 square feet of living area. The dwelling was constructed in 1983. Features of the home include a walkout basement with finished area, central air conditioning, two fireplaces, and a 2-car, or 716

square foot, garage.¹ The property has a 24,393 square foot site and is located in Geneva, Geneva Township, Kane County.

The appellant contends both assessment inequity with regard to the improvement assessment and a contention of law as the bases of the appeal. In support of the assessment inequity argument, the appellant submitted information regarding twenty-nine equity comparables presented in two grid analyses.² The comparables are located within the same assessment neighborhood code as the subject. The comparables are improved with 1-story, 1.5-story, or 2-story homes ranging in size from 1,829 to 8,946 square feet of living area. The dwellings were built from 1856 to 2019. Twenty-eight homes each have a basement, two of which are reported to have finished area and two of which are reported to have walkout basements, and one home has a concrete slab foundation. Five homes are reported to have one or two fireplaces and five homes are reported to have central air conditioning.³ Each home has a 2-car or a 3-car garage. The comparables have improvement assessments ranging from \$83,642 to \$890,016 or from \$25.33 to \$109.66 per square foot of living area.

The appellant reported that comparables #28 and #29 sold in December 2019 and June 2021 for prices of \$725,000 and \$1,700,000 or for \$396.39 and \$398.87 per square foot of living area, including land, respectively. The appellant submitted listing sheets and photographs in connection with these two sales. These two comparables specifically have improvement assessments of \$195,380 and \$467,371 or \$106.82 and \$109.66 per square foot of living area, with sales-assessment ratios of 33.80% and 31.66%.

The appellant disclosed that the subject sold in June 2019 for a price of \$799,900. The appellant submitted a listing sheet and photographs in connection with the sale.

In a brief, based on the foregoing grid analysis, the appellant contended that the subject's assessment was increased in 2019 to reflect its sale price. The appellant argued that the comparables demonstrate that properties in the subject's neighborhood that recently sold have higher assessments than other properties which have not recently sold, indicating that these properties have been removed from the mass appraisal system to be assessed in accordance with their sale prices.

At hearing, Devine stated the subject property is the only home classified as a 1.5-story in the subject's neighborhood⁴ and is modest compared to other homes on the same street. Devine asserted that the subject's second floor living area is only a loft area, as depicted in photographs of the subject home presented by the appellant, and is not a traditional 1.5-story home.

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.

² The six comparables presented in the first grid analysis are also presented in the second grid analysis and are renumbered as comparables #6, #7, #11, #12, #13, and #16 to correspond to their placement in the second grid analysis.

³ The Board notes that basement finish, central air conditioning amenity, and fireplace amenity are reported only for the six comparables described in the first grid analysis.

⁴ The Board notes that the second grid analysis describes one comparable that is a 1.5-story home.

Devine asserted the subject's 2018 tax year assessment was \$138,472 which reflects a fair market value of \$415,458, but the subject was re-assessed for the 2019 tax year to reflect the sale price. There is no record evidence that a timely appeal was pursued for the 2019 revaluation. Devine argued that the seven highest assessments in the subject's neighborhood are for new construction or recent sales, including the subject, indicating that only new or recently sold properties are being re-assessed while other properties in the neighborhood have only an equalization factor being added. Devine further argued this case is similar to the Walsh case (Walsh v. Property Tax Appeal Bd., 181 Ill. 2d 228, 692 N.E.2d 260, 229 Ill. Dec. 487 (Ill. 1998)) where the county did not seek new data that it applied to the whole neighborhood and just applied sales data to the property that sold.

Upon questioning by Abell, Devine clarified that since the appellant's evidence was prepared only one additional property has sold, comparable #27, which is not on the same street as the subject. Devine stated that the township assessor should know what the interior of a property looks like where a permit has been issued and Abell agreed. Devine further stated that homes should be assessed based on a three-year median of sales activity in the neighborhood. Devine acknowledged that mass appraisal is not perfect and some properties may be outliers.

Based on this evidence the appellant requested a reduction in the subject's improvement assessment to \$88,731 or \$41.87 per square foot of living area, which would result in a reduction in the subject's total assessment to \$138,472, reflecting a market value of \$415,458 or \$196.06 per square foot of living area, including land, when applying the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$266,640, which reflects a market value of \$800,000 or \$377.54 per square foot of living area, land included, when applying the statutory level of assessment of 33.33%. The subject property has an improvement assessment of \$216,899 or \$102.36 per square foot of living area. The board of review disclosed that 2019 was the first year of the general assessment cycle and that an equalization factor of 1.10550 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, disclosing that the subject was sold in June 2019 for \$799,000 and asserting that the subject was listed for sale in August 2020 for \$819,000. The township assessor argued that the subject home has been updated with modern appliances, cabinets, flooring, windows, doors, and bathrooms as depicted in photographs and described in a listing sheet attached to the township assessor's letter. The township assessor stated that the interior of the subject home was last inspected in November 2020 and kitchen and bathroom remodels in progress were observed at that time.

With the letter, the township assessor presented a grid analysis of five of the appellant's comparables, arguing that each of these comparables differ from the subject in bathroom count, basement finish, garage size, foundation type, location, central air conditioning amenity, fireplace count, condition, and/or dwelling size.

The township assessor also presented the subject's property record card and a 2020 assessment information sheet for the subject property. The property record card describes a total assessment of \$138,472 for the 2018 tax year, a total assessment of \$265,310 for the 2019 tax year, a total assessment of \$270,430 for the 2020 tax year, and a total assessment of \$274,621 for the 2021 tax year. The assessment information sheet describes a total assessment of \$270,430 after equalization by the supervisor of assessments.

At hearing, Abell contended the comparables #4 and #5 presented in the board of review's grid analysis of the appellant's comparables⁵ have improvement assessments that bracket the subject and are similar to the subject in age and basement finish. Devine asked whether Abell was aware that comparable #4 sold in 2015 and comparable #5 sold in 2019, and were thus, properties which also received the same unfair treatment as the subject. Abell responded that she was not aware of those sales. The Administrative Law Judge asked whether the subject's whole neighborhood was re-assessed in 2019. Abell responded she did not know but stated that in a general assessment year the township assessor will consider whether to revalue a neighborhood based on available information and would have considered sales in the subject's neighborhood from 2016, 2017, and 2018. The Administrative Law Judge asked whether that re-assessment process includes revaluing a specific property based on its sale price. Abell responded that she believed the township assessor would consider new information about a specific property.

Based on this evidence the board of review requested the subject's improvement assessment be sustained.

In written rebuttal, the appellant contended that the photographs presented by the board of review did not accurately depict the subject's condition as the subject property needed repairs to correct drainage issues and remediation for chemicals in the building materials.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

As an initial matter, the Board finds that the appellant has not demonstrated the subject property has any condition issues. The board of review's evidence shows that the subject property was in the process of being remodeled in November 2020. The appellant did not present any evidence to substantiate any condition issues or any evidence of the purported drainage issues and/or remediation when remodeling was in progress as of the January 1, 2021 assessment date.

⁵ The comparables presented as comparables #4 and #5 in this grid analysis are the same properties as comparables #26 and #28 in the appellant's second grid analysis.

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 record contains a total of twenty-nine equity comparables presented by the appellant for the Board's consideration. The record also contains evidence that the subject sold for \$799,000 in June 2019 and was listed for sale in August 2020 for \$820,000. The Board gives less weight to the appellant's comparables #1 through #5, #7 through #10, and #13 through #29, due to substantial differences from the subject in dwelling size.

The Board finds the best evidence of assessment equity to be the appellant's comparables #6, #11, and #12, which are more similar to the subject in dwelling size, but have varying degrees of similarity to the subject in design, age, foundation type, basement finish, and other features. These most similar comparables have improvement assessments that range from \$97,897 to \$101,368 or from \$42.37 to \$49.14 per square foot of living area. The subject's improvement assessment of \$216,899 or \$102.36 per square foot of living area falls substantially above the range established by the best comparables in this record.

Based on this record and after considering appropriate adjustments to the best comparables for differences when compared to the subject, such as design and basement finish, the Board finds the subject's improvement assessment is excessive on this limited record for purposes of assessment equity.

The appellants' appeal is also based on a contention of law regarding a violation of the uniformity clause of the Illinois Constitution. 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)).

Although the subject's total assessment reflects a market value approximately equivalent to its 2019 sale price, the Board finds it would be inequitable to assess the subject property to reflect its purchase price, as this would result in a total assessment significantly above the assessments of similar nearby properties that have arguably analogous fair cash values as the subject property based on their similar locations and building characteristics. Therefore, based on equity and the weight of the evidence, the Board finds a reduction in the subject's assessment is 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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