



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

APPELLANT: Art Gustafson
DOCKET NO.: 21-05569.001-F-3
PARCEL NO.: 08-15-100-001

The parties of record before the Property Tax Appeal Board are Art Gustafson, the appellant, by attorney Max E. Callahan, of Siegel & Callahan, P.C. in Chicago; the Kane County Board of Review; and the B.O.E. of St. Charles CUSD #303, intervenor, by attorney Pamela E. Simaga of Hodges, Loizzi, Eisenhammer, Rodick & Kohn in Itasca.

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 as this appeal is **dismissed** for failure to provide a court reporter for the hearing as required. The assessed valuation of the property without consideration of the merits is:

F/Land:	\$11,879
Homesite:	\$37,484
Residence:	\$839,691
Outbuildings:	\$0
TOTAL:	\$889,054

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 subject property consists of a 2-story dwelling of masonry exterior construction with 10,275 square feet of living area. The dwelling was constructed in 1999 and is approximately 22 years old. Features of the home include a walkout basement with finished area, central air conditioning, four fireplaces, a 1,480 square foot attached garage, and a 5,494 square foot 2-story detached garage. The property has a 2,080,665 square foot site, which includes farmland and a homesite, and is located in St. Charles, Campton Township, Kane County.

The appellant's appeal is based on overvaluation. The appellant challenged the assessment of the subject's residential improvements, but did not contest the farmland and homesite assessments. The record contains an appraisal of the subject property submitted by the appellant estimating the property had a market value of \$1,610,000 as of January 1, 2021. Based on this evidence the appellant requested a reduction in the subject's total assessment to \$536,613.

The record also contains the board of review's "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$889,054. The subject's homesite and dwelling have a total assessment of \$877,175, which reflects a market value of \$2,631,788 or \$256.14 per square foot of living area, land included, when using the 2021 three-year average median level of assessment for Kane County of 33.33% as determined by the Illinois Department of Revenue. The subject property has an \$11,879 farmland assessment, which is calculated using its productivity index. The board of review submitted twelve comparable sales and one listing in support of the subject's assessment. The intervenor adopted the board of review's evidence.

This appeal was scheduled for a hearing before the Property Tax Appeal Board on September 18, 2023 at 2:30 p.m. at the Property Tax Appeal Board's Springfield office pursuant to prior written notice dated July 10, 2023.¹ As part of the hearing notice, the Property Tax Appeal Board notified the appellant that if the appellant was seeking a change in assessment of \$100,000 or more in assessed valuation, the appellant must provide a court reporter, at the appellant's own expense, pursuant to Section 1910.98(a) of the Property Tax Appeal Board's procedural rules (86 Ill. Admin. Code § 1910.98(a)).

On the day of the hearing at approximately 11:30 a.m., the appellant's attorney, Gosia Glowacka, requested a postponement by email to the Administrative Law Judge ("ALJ") due to attorney illness.² Glowacka stated in the postponement request that she had a positive COVID test and was unable to fly to Illinois that morning. In support of the postponement request, Glowacka submitted a copy of her driver's license and an American Airlines travel itinerary describing a flight departing Raleigh/Durham at 6:15 a.m. and arriving in Chicago at 7:35 a.m. Glowacka further stated no other attorneys were available to cover the hearing.

At the time and date of the scheduled hearing, attorney Glowacka appeared by telephone on behalf of the appellant,³ and Michelle Abell, Kane County Board of Review Member, appeared in person on behalf of the Kane County Board of Review. No one appeared on behalf of the intervenor and would be defaulted herein. However, no court reporter was present.⁴

At the hearing, the appellant's attorney, Glowacka, reiterated the postponement request on the grounds of attorney illness. Glowacka stated the appellant's appraiser was available by telephone if needed. The board of review objected to the postponement given the late timing of the request after Abell had already travelled to Springfield. Abell further argued the appeal should be dismissed because no court reporter was present. Upon questioning by the ALJ,

¹ The appellant requested a hearing in the appeal petition but later waived its request. However, the intervenor requested a hearing in its Request to Intervene in Appeal Proceeding.

² The ALJ then forwarded the postponement request to the board of review.

³ The ALJ ordered the appellant's attorney to appear telephonically to argue the request for postponement given the late timing of the request.

⁴ Because no court reporter was present, the ALJ made an audio recording of the proceeding.

Glowacka admitted no court reporter had been engaged for the scheduled hearing. Glowacka stated she was unaware that a court reporter was needed.

The ALJ found the illness of the appellant's attorney was good cause to postpone the hearing and granted the postponement request pending a ruling on the board of review's request to dismiss the appeal due to the appellant's failure to provide a court reporter, which could make the postponement moot. The ALJ asked the parties to submit briefs on the court reporter issue by close of business on Thursday, September 21, 2023.

On September 20, 2023, the board of review filed a Motion to Dismiss the Appeal, contending that this appeal should be dismissed due to the appellant's failure to provide a court reporter and its witness for the scheduled hearing. The appellant did not file a brief by September 21, 2023 and did not file a response to the board of review's motion with 21 days. (86 Ill. Admin. Code § 1910.64(d)).

Conclusion of Law

Section 1910.98(a) of the Property Tax Appeal Board's procedural rules provides as follows:

All Property Tax Appeal Board hearings at which evidence is presented for the purpose of determining the correct assessment of property that is the subject of an appeal shall be recorded either by an electronic recording device or by a certified court reporter. In all cases where the contesting party is seeking a change of \$100,000 or more in assessed valuation, the contesting party must provide a court reporter at his or her own expense. (Section 16-190 of the Code) In all cases where the contesting party is seeking a change of less than \$100,000 in assessed valuation, the Board shall record the hearing by an electronic recording device. A Board tape recording of any hearing will be retained through and including the time allotted for an appeal of a Board decision under the Administrative Review Law [735 ILCS 5/Art. III] and Section 16-195 of the Code.

86 Ill. Admin. Code § 1910.98(a). This rule mirrors the requirement set forth in Section 16-190(a) of the Property Tax Code governing the record of proceedings before the Property Tax Appeal Board, which mandates in part that “[i]n all cases where the contesting party is seeking a change of \$100,000 or more in assessed valuation, the contesting party must provide a court reporter at his or her own expense.” 35 ILCS 200/16-190(a).

In addition, Section 1910.69(d) of the Property Tax Appeal Board's procedural rules provides in part that “[f]ailure of the contesting party to furnish a court reporter as required in Section 1910.98(a) shall be sufficient cause to dismiss the appeal.” 86 Ill. Admin. Code § 1910.69(d).

The Property Tax Appeal Board finds the appellant requested a change in the assessment in excess of \$100,000 in the appeal petition. The amount of change sought in an appeal is fixed upon the filing of a petition and is the difference between the board of review's final decision (\$889,054) and the proposed assessment requested by the appellant in the petition (\$536,613). County of Coles v. Property Tax Appeal Bd., 275 Ill. App. 3d 945, 949, 657 N.E.2d 673, 676, 212 Ill. Dec. 472, 475 (4th Dist. 1995). Thus, the Property Tax Appeal Board finds that due to

the change in the assessment requested by the appellant, the appellant was required to provide a court reporter, at the appellant's own expense, at the scheduled hearing.

The Property Tax Appeal Board further finds the appellant was notified of the requirement to provide a court reporter under Section 1910.98(a) in the July 10, 2023 hearing notice. As established by the statements of counsel at the hearing, the appellant did not procure the services of a court reporter for the hearing as required by Section 1910.98(a). Furthermore, no court reporter was present at the scheduled hearing.

Based on this record, the Property Tax Appeal Board dismisses the appeal.

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 21, 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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