



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

APPELLANT: Courtney Wander and Rhett Willborn  
DOCKET NO.: 21-06692.001-R-2 through 21-06692.003-R-2  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Courtney Wander and Rhett Willborn, the appellants, by Jessica Hill-Magiera, Attorney at Law in Lake Zurich; the McHenry County Board of Review; the McHenry C.H.S.D. # 156, and McHenry Elementary S.D. # 15, intervenors, by attorney Scott E. Nemanich of Klein, Thorpe, & Jenkins, Ltd. in Orland Park.

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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

<b>DOCKET NO</b>	<b>PARCEL NUMBER</b>	<b>LAND</b>	<b>IMPRVMT</b>	<b>TOTAL</b>
21-06692.001-R-2	09-24-451-028	70,208	294,147	\$364,355
21-06692.002-R-2	09-24-451-030	13,444	0	\$13,444
21-06692.003-R-2	09-24-451-041	66,215	0	\$66,215

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the McHenry 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 Dryvit exterior construction with 9,116 square feet of living area. The dwelling was constructed in 1995. Features of the home include a crawl-space foundation, central air conditioning, two fireplaces, a 1,599 square foot attached garage, and a 2,280 square foot detached garage, which also contains an unfinished attic. The property has a 130,680 square foot riverfront site and is located in McHenry, McHenry Township, McHenry County.

The appellants appeared before the Property Tax Appeal Board by counsel Jessica Hill-Magiera arguing both a contention of law and overvaluation as the bases of the appeal.

As to the contention of law, the appellants note that the board of review reduced the subject's assessment for the 2020 tax year, based on the subject's December 2019 sale, and argue that the reduced assessment be carried forward to the 2021 tax year pursuant to Section 16-80 of the Property Tax Code (35 ILCS 200/16-80).

In support of the overvaluation argument, the appellants submitted evidence of the subject's December 2019 sale. The appellants disclosed the subject property was purchased in December 2019 for a price of \$650,000. The appellants reported that the seller was Harold E. Nicodem, the parties to the transaction were not related, and the property was sold through a realtor. The appellants also indicated the property was advertised for sale through the Multiple Listing Service for a period of 155 days. In further support of the appeal, the appellants submitted a copy of the Multiple Listing Service sheet, the PTAX-203 Real Estate Transfer Declaration, and settlement statement which list the sale price of \$650,000, a settlement date of December 10, 2019, and depict commissions being distributed to Coldwell Banker and Baird and Warner. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the purchase price.

At hearing, appellants' counsel stated that the home was listed for nearly two years prior to the sale, with an original list price of \$1,695,000 which was subsequently lowered to \$1,200,000. Appellants' counsel explained that the home suffered water damage and was then taken off the market. Counsel then pointed out that the home was relisted after approximately 20% of the repairs were completed, and eventually sold in December 2019.

Board of review member Sharon Bagby asked appellants' counsel why no actual costs of repairs were submitted, rather than the insurance estimate, to which appellants' counsel replied that she did not have any evidence of the actual costs. Bagby also asked appellants' counsel whether the PTAX-203 Real Estate Transfer Declaration indicated if the subject was going to be owner occupied, and counsel stated that the box was checked "no" as to whether the home would be the appellants' principal residence.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$444,014. The subject's assessment reflects a market value of \$1,332,975 or \$146.22 per square foot of living area, land included, when using the 2021 three-year average median level of assessment for McHenry County of 33.31% as determined by the Illinois Department of Revenue.

Appearing on behalf of the McHenry County board of review were board members Sharon Bagby, Clifton Houghton, and Michael Grebenick. Also present was Alejandro Benitez, Valuation Director for the McHenry County board of review.

The board of review called McHenry Township Assessor Mary Mahady to testify. Mahady stated that she was informed by the previous owners of the subject that there had been a water main break in the home in the winter of 2019 and the owner's submitted insurance estimates for the repairs. Ms. Mahady testified that she performed an interior inspection of the home, noting that the damage started on the second floor of the home and affected approximately 70% of the first floor. She noted that the drywall, carpet, and flooring had been removed. Mahady then explained that she reduced the assessment for 2019 based on the insurance estimate. Mahady

stated that she was notified in 2020, by the issuance of an occupancy certificate, that the repairs had been completed. Mahady explained that she returned the assessment to the previous value based on the change in the condition of the property.

Mahady testified further that the appellants were not occupying the subject as of January 1, 2020. She stated that the appellants were living in another home on Margaret Court, which received a homeowner's exemption. Mahady reiterated that the appellants did not occupy the subject until May 2020. Mahady stated that the subject was listed in September 2021 for \$2,600,000, and was taken off the market in December 2021. Mahady pointed out that the 2021 assessment was increased from 2020 by a township equalization factor.

Under questioning by board of review member Grebenick, Mahady testified that the work that was completed to the home exceeded, in her opinion, what would be considered repairs and constituted an upgrade over the previous condition of the home. She stated that the photographs from the 2021 listing depicted an upgraded condition of the home as opposed to the condition prior to the water damage, resulting in an increased value.

Under questioning by the intervenor's counsel, Mahady testified that she believed the board of review reduced the 2020 assessment to the purchase price because the repairs had not been completed as of January 1, 2020.

Under cross-examination, Mahady stated that she had not conducted an interior inspection of the subject prior to 2019. She then confirmed that although the home was listed in 2021 it did not sell.

On re-direct examination, Ms. Mahady confirmed that the home was listed in September 2021 for \$2,600,000. She stated that the market value, as reflected by the assessment, that year was \$1,332,042. Ms. Mahady was then asked to describe the property. She described the property as being located on the Fox River sitting on approximately three acres of land, and containing 9,116 square feet of living area. She asserted that the subject was a unique waterfront property at the higher end of value in the township. Mahady stated that the appellants did not receive a homeowner's exemption for the subject until 2021 since they were receiving the exemption on the other property they owned and occupied as of January 2020. She also reiterated that she increased the assessment based on a change in condition to the property.

Under questioning by the Administrative Law Judge, Mahady stated that the 2021 assessment was based on the 2019 assessment with the application of equalization factors, as well as Mahady reviewing other sales to determine the market value.

In support of its contention of the correct assessment the board of review submitted a copy of the subject's property record card, photographs of the home, an aerial photograph of the property, Multiple Listing Service sheets associated with the subject's 2019 sale and 2021 listing, and a listing and history report.

In written rebuttal, the appellants submitted a copy of the insurance company estimate of repair costs and argued that the assessment should not exceed the 2020 purchase price with the addition of the estimated repair costs and any equalization factors applied.

### **Conclusion of Law**

The appellants appeal the assessment of the subject, in part, under the category of a contention of law. The appellants seek to have the 2020 assessment carried forward to the 2021 tax year. Section 10-15 of the Illinois Administrative Procedure Act (5- ILCS 100/10-15) provides:

Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill. Admin. Code §1910.63. The Board finds the appellants did not meet this burden of proof and a reduction in the subject's assessment based on a contention of law is not warranted.

The appellants seek to have the 2020 assessment carried forward to the 2021 tax year based on Section 16-80 of the Property Tax Code. 35 ILCS 200/16-80. Section 16-80 provides as follows:

In any county with fewer than 3,000,000 inhabitants, if the board of review lowers the assessment of a particular parcel on which a residence occupied by the owner is situated, the reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless the taxpayer, county assessor, or other interested party can show substantial cause why the reduced assessment should not remain in effect, or unless the decision of the board is reversed or modified upon review.

There is no dispute that the appellants did not occupy the home on the assessment date of January 1, 2020. Further, the record reveals that the appellants received a homeowner's exemption on a different property for tax year 2020 and the PTAX-203 submitted by the appellants indicates the property was not to be the appellants' principal residence.

Further, the Board finds the board of review demonstrated substantial cause as to why the 2020 reduced assessment should not remain in effect for the 2021 tax year. The record evidence and testimony reveal that the subject suffered extensive water damage which resulted in a reduced assessment for 2020. The evidence and testimony further show that repairs to the property were completed in March 2020 which restored the home to its previous condition.

For these reasons, the Board finds that under the facts of this appeal Section 16-80 of the Property Tax Code is not applicable.

The appellants also contend the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill. Admin. Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales

or construction costs. 86 Ill. Admin. Code §1910.65(c). The Board finds the appellants did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board gave diminished weight to the subject's December 2019 sale price, which occurred 13 months prior to the assessment date at issue in this appeal. The Board finds the sale price does not reflect the updated condition of the subject property as of the January 1, 2021 assessment date. The Board finds the record is unrefuted that the subject dwelling received extensive interior repairs and remodeling after its December 2019 sale. Less weight was given to the insurance estimate of repair costs, which is only a preliminary account of the subject's repair expenses, and no evidence was submitted of the actual cost to repair the home. Finally, the appellants listed the home in September 2021 for \$2,600,000, considerably more than its estimated market value as reflected by its assessment, which further detracts from the appellants' contention that the subject property is overvalued. In Application of Rosewell, 120 Ill. App. 3d 369 (1<sup>st</sup> Dist. 1983), the court recognized assessing officials are not barred, as a matter of law, from considering events which occurred after the lien date in assessing properties and subsequent events assessing officials may consider in any individual case will depend on the nature of the event and the weight to be given the event will depend upon its reliability in tending to show value as of January 1. Based on this evidence 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



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: March 26, 2024



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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