



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

APPELLANT: Martin Pawelec  
DOCKET NO.: 22-03717.001-R-1  
PARCEL NO.: 06-01-134-004

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

**LAND:** \$98,580  
**IMPR.:** \$404,370  
**TOTAL:** \$502,950

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2022 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 April 2, 2024 for a hearing at the DuPage Center in Wheaton pursuant to prior written notice dated February 13, 2024. Appearing on behalf of the appellant was attorney Nora Devine and DaShawn Weaver-Drew, Certified Residential Appraiser. Appearing on behalf of the DuPage County Board of Review was Carl Peterson, Member of the DuPage County Board of Review, along with the board of review's witness, Julie Patterson, Deputy Assessor for York Township.

The subject property consists of a two-story dwelling of brick, masonry or stone exterior construction<sup>1</sup> with 4,196 square feet of living area. The dwelling was constructed in 2016 and is

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<sup>1</sup> The Board finds the best evidence of the subject's exterior materials was found in the subject's property record card which reports brick, masonry or stone in contrast to the appraisal report which reports a stucco surface. Exterior photos of the subject, found in the appraisal report support the property record card's exterior surfaces.

approximately six years old. Features of the home include a basement with approximately 1,640 square feet of finished area.<sup>2</sup> The dwelling has central air conditioning, one fireplace and a 695 square foot 3-car garage. The property has an approximately 9,444 square foot site and is located in Elmhurst, York Township, DuPage County.

The appellant's appeal is based on both overvaluation and assessment inequity. The subject's land assessment was not challenged.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject property had a market value of \$1,300,000 as of January 1, 2022. The appraisal was prepared by Jennifer Bogardus an Associate Trainee Real Estate Appraiser and DaShawn Weaver-Drew, SRA and Certified Residential Real Estate Appraiser as supervisor. The intended use of the appraisal report was to develop a retrospective market value of the subject for ad valorem purposes. In estimating the market value of the subject property, the appraiser developed the sales comparison approach to value selecting five comparable sales located from 0.02 to 0.34 of a mile from the subject property. The comparables have sites that range in size from 7,347 to 13,059 square feet of land area and are improved with traditional or Victorian style dwellings of good quality construction ranging in size from 3,399 to 4,323 square feet of living area. The homes range in age from 5 to 7 years old. Each comparable has a basement with finished area, central air conditioning, one fireplace and a 2-car garage. The comparables sold from January to November 2021 for prices of \$1,135,000 to \$1,320,000 or from \$272.96 to \$378.66 per square foot of living area, land included. The appraiser adjusted the comparables for differences with the subject arriving at adjusted prices ranging from \$1,140,820 to \$1,304,600 and an opinion of market value for the subject of \$1,300,000 under the sales comparison approach.

Ms. Devine introduced the appraiser, Mr. Weaver-Drew, who stated he was a certified residential real estate appraiser and SRA through the Appraisal Institute. Ms. Devine asked if Mr. Weaver-Drew was accepted as an expert witness. Mr. Peterson asked if Mr. Weaver-Drew was licensed, noting his license number was missing from the appraisal report. Mr. Weaver-Drew stated he was in fact licensed and Mr. Peterson accepted the appraiser without objection.

Mr. Weaver-Drew testified that his search for comparables was based on comparable sales occurring within a 12 month timeframe that were located within approximately one-half of a mile from the subject property and were overall similar to the subject in their property characteristics, such as age, site size, dwelling size, basement and overall condition and quality. The appraiser testified he selected five comparable properties where comparables #1 and #4 are located in the subject's neighborhood and comparables #2 and #3 bracket the subject's dwelling size, basement size and/or site size. Mr. Weaver-Drew stated the subject property is less desirable because it has not been upgraded since being originally constructed and that some of the kitchen and bathroom features have "less modernization" than the board of review comparable #3.

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<sup>2</sup> The parties differ as to the percent of the basement that is finished. The board of review reports finished basement area of 1,640 square feet while the appellant's appraiser reports 80% finished or 1,458 square feet of finished basement area. The Board finds the best source of the subject's finished basement is found in the subject's property record card submitted by the board of review which contained a sketch with dimensions. The Board finds no sketch, or any other documentation was included in the appraisal of the subject.

On cross examination Mr. Peterson asked if Mr. Weaver-Drew had personally inspected the subject property to which he replied that his trainee, Jennifer Bogardus, had performed the interior and exterior inspection but that he did drive past the property to observe the exterior. Mr. Peterson noted the asphalt street surface reported in the appraisal is different from the actual paved block surface and asked if a paved block street could affect value. Mr. Weaver-Drew agreed the asphalt surface was incorrectly reported in the appraisal and stated that a paved block surface may be superior aesthetically, but he couldn't say if this feature would affect the value of a property.

Mr. Peterson asked how many of the appraisal comparables were located in the same subdivision as the subject property. The appraiser stated appraisal comparables #1 and #4 are in the same neighborhood as the subject property, although, Mr. Weaver-Drew didn't consider the subject to be located in a subdivision as there were no homeowner's association fees associated with the subject's neighborhood. Mr. Weaver-Drew stated that a subdivision should be platted and have a community name. Upon observing a plat that Julie Patterson, the board of review's witness, had taken out, Ms. Devine asked if the subject's neighborhood was platted or named. Ms. Patterson stated yes it was platted with 56 homesites and that it is called the Nitti Subdivision. Mr. Peterson asked Mr. Weaver-Drew if, in appraisal practice, one would look for sales from the same subdivision as the subject to select comparable properties, to which Mr. Weaver-Drew replied yes.

Mr. Peterson questioned the appraiser about the various adjustments for elements such as site size, basement finish, garages and condition. This line of questioning raised an issue as to the finished square footage of subject's basement. As to the appraiser's basement adjustments, the ALJ asked if the \$60,000 basement adjustments are made for full finished basement versus partial finished basement regardless of square footage or room count, to which Mr. Weaver-Drew replied yes, then qualified his response by stating that "square footage is factored."

As an alternate basis of the appeal, the appellant contends assessment inequity with respect to the improvement assessment. In support of the inequity argument, the appellant submitted information on five equity comparables three of which are located in the same neighborhood code as the subject property. Appellant's comparables #1, #2 and #4 are the same properties as the appraisal comparables #2, #5 and #4, respectively. The comparables are improved with two-story dwellings of frame, aluminum or vinyl or frame and brick or stone exterior construction ranging in size from 3,399 to 3,953 square feet of living area. The dwellings were built from 2015 to 2017 years old. Each comparable has a basement with three reported to have finished area. Each dwelling has central air conditioning, one fireplace and a 2-car garage. Comparable #3 features a basketball court. The comparables have improvement assessments that range from \$276,070 to \$363,250 or from \$79.30 to \$91.89 per square foot of living area.

Based on this evidence, the appellant requested the subject's total assessment be reduced to \$433,290. The requested assessment reflects a total market value of \$1,300,000 or \$309.82 per

square foot of living area, land included. The appellant's appeal petition indicates a requested improvement assessment of \$334,710 or \$79.77 per square foot of living area.<sup>3</sup>

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$502,950. The subject's assessment reflects a market value of \$1,509,454 or \$359.74 per square foot of living area, land included, when using the 2022 three-year average median level of assessment for DuPage County of 33.32% as determined by the Illinois Department of Revenue. The subject has an improvement assessment of \$404,370 or \$96.37 per square foot of living area.

Julie Patterson, CIAO and Deputy Assessor for York Township was introduced as the board of review's witness. Ms. Patterson stated she has been a Deputy Assessor for York Township for 15 years and has worked in the York Township Assessor's Office for 18½ years. Ms. Patterson stated that she prepared the board of review's evidence and was admitted as a witness for the board of review without objection.

In support of its contention of the correct assessment on market value grounds, the board of review submitted information on four comparable sales, numbered #1 through #4, which are located on the same street as the subject property or in the same subdivision as the subject. Board of review comparable #1 is the same property as appraisal comparable #1. The comparables have sites that range in size from 7,297 to 7,707 square feet of land area and are improved with two-story dwellings of frame, aluminum or vinyl exterior construction ranging in size from 3,371 to 3,883 square feet of living area. The dwellings were built from 2015 to 2018. Each comparable has a basement with finished area,<sup>4</sup> central air conditioning, one fireplace and a garage ranging in size from 418 to 456 square feet of building area. The comparables sold from January 2021 to June 2022 for prices ranging from \$1,320,000 to \$1,550,000 or from \$378.66 to \$409.37 per square foot of living area, land included.

On equity grounds, the board of review submitted information on four equity comparables which are numbered #5 through #8 and are located in the same neighborhood code as the subject property. The comparables are improved with two-story dwellings of brick, masonry or stone exterior construction ranging in size from 3,782 to 3,919 square feet of living area. The homes were built in 2016 or 2017. Each comparable has a basement, with two having finished area. Each dwelling has central air conditioning, one fireplace and a garage ranging in size from 446 to 759 square feet of building area. The comparables have improvement assessments ranging from \$365,560 to \$383,820 or from \$96.44 to \$99.69 per square foot of living area.

Based on this evidence, the board of review requested the subject's assessment be confirmed.

With respect to the board of review's comparable sales, Ms. Patterson testified she finds a difference in value between homes in the subject's Nitti Subdivision and other neighborhoods such as assessment neighborhood code 012. Ms. Patterson asserted the Nitti homes are

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<sup>3</sup> In a brief submitted by the appellant's attorney, the attorney states a requested improvement assessment for the subject of \$363,380 or \$86.60 per square foot of living area which contradicts the request on the appeal petition.

<sup>4</sup> The Board finds the best description of the basement for board of review comparable #3 is found in the Multiple Listing Service sheet (MLS) for the property which was submitted by the appellant in rebuttal.

advertised and sold as custom homes and that a typical home in the subject's subdivision includes features considered to be upgrades in other area developments. In support of this assertion, the board of review submitted nine pages of information on the subject's Nitti Subdivision, including a plat map. Ms. Patterson also testified that original new construction purchase prices for homes in the subject's subdivision are substantially higher than the original new construction purchase prices for homes in neighborhood code 012.

Under cross examination Ms. Patterson testified that even though a property may be across the street from the subject that does not mean it has the same value. Ms. Devine asserted all of the appraisal comparable sales, regardless of neighborhood, are valid when determining market value of the subject property. Ms. Patterson argued that if there were no sales in the subject's subdivision then a search outside the subject's neighborhood is appropriate, however, there were sales in the subject's subdivision which she contends are more indicative of market value for the subject property than sales located outside of the subject's subdivision.

Mr. Peterson asked his witness if differences in amenities from one property to another account for differences in a property's improvement assessment. Ms. Patterson pointed to the "2022 Final Worksheet with Factor" submitted for the subject and each of the board of review comparables, noting the improvement assessments are developed based on the actual characteristics of a property.

In written rebuttal, the appellant's attorney critiqued the board of review comparables highlighting differences in bathroom counts, smaller square footage and/or age. The appellant argued board of review comparable #2 was not listed in the MLS and therefore should not be considered by this Board. Additionally, the appellant argued board of review comparable #4 sold after the lien date at issue and therefore should not be considered by this Board.

### **Conclusion of Law**

The appellant contends, in part, 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 appellant did not meet this burden of proof and a reduction in the subject's assessment, based on overvaluation, is not warranted.

The appellant submitted an appraisal and the board of review submitted four comparable sales for the Board's consideration, where the appraisal comparable #1 and board of review comparable #1 are the same property. The Board finds three of the five comparables selected by the appraiser are located outside of the subject's subdivision even though additional sales located in the subject's subdivision were available at the time the report was prepared. The Board finds the exclusion of comparable sales from the subject's subdivision detracts from the credibility of the appraiser's opinion of value for the subject property. The Board further finds the appraiser's basement adjustment to be questionable as it appears to be based exclusively on whether a property had a partially finished or fully finished basement and regardless of the basement square footage or finished basement area. Additionally, the Board finds the errors contained in the

appraisal report, such as street surface and exterior, further detracts from the overall credibility of the appraisal. For these reasons, the Board gives little weight to the appraiser's opinion of value for the subject property. The Board shall, however, consider the raw comparable sales contained in the appraisal report.

The Board gives less weight to appraisal comparables #2, #3 and #5 which are located outside the subject's subdivision.

The Board finds the best evidence of market value to be appraisal comparables #1 and #4 along with each of the board of review comparables, including the common property, which are more similar to the subject in location and age but where each of these properties has a smaller site size, smaller dwelling size and smaller garage size when compared to the subject, suggesting upward adjustments are needed to make these properties more equivalent to the subject. These best comparables sold from January 2021 to June 2022 for prices ranging from \$1,305,000 to \$1,550,000 or from \$341.80 to \$409.37 per square foot of living area, including land. The subject's assessment reflects a market value of \$1,509,454 or \$359.74 per square foot of living area, including land, which falls within the range established by the best comparable sales in the record. After considering adjustments to the best comparables for differences with the subject, the Board finds a reduction in the subject's assessment, based on overvaluation, is not justified.

The taxpayer also contends assessment inequity as an alternative 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 did not meet this burden of proof and a reduction in the subject's assessment, based on inequity is not warranted.

The parties submitted a total of nine equity comparables for the Board's consideration. The Board gives less weight to appellant comparables #1, #2, #3 and #5 along with board of review comparables #5 and #7 which are located in a different assessment neighborhood code than the subject and/or lack finished basement area in contrast to the subject's finished basement.

The Board finds the best evidence of assessment equity to be appellant comparable #4 and board of review comparables #6 and #8 which are more similar to the subject in location, age, design, dwelling size and finished basement area. These best equity comparables have improvement assessments that range from \$346,610 to \$383,820 or from \$90.78 to \$99.69 per square foot of living area. The subject's improvement assessment of \$404,370 or \$96.37 per square foot of living area falls above the range established by the best equity comparables in the record on an overall basis and within the range on a per square foot basis. Given the subject's larger site size, larger dwelling size and larger garage size, relative to the best comparables, a higher overall improvement assessment appears to be justified. Therefore, after considering adjustments to the comparables for differences from the subject, the Board finds the subject's assessment is supported and no reduction, based on lack of uniformity, is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. 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 in this record.

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:

May 21, 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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