

State of Illinois

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

DECIDED BY THE BOARD

During Calendar Year 2015

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Chairman

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PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
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Decisions are available on our site:

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2015 FOREWORD

In the following pages, representative decisions of the Property Tax Appeal Board are reported. An index is also included. The index is organized by subject matter, and is presented in alphabetical sequence. Section 16-190(a) of the Property Tax Code (35 ILCS 200/16-190(a)) requires the Board to publish a volume of representative cases decided by the Board during that year.

Should the reader wish to become more completely informed about an appeal than is permitted by a reading of this volume, he or she need only access the Property Tax Appeal Board's website at www.ptab.illinois.gov and click on the link that says "Appeal Status Inquiry." Access to Board records is addressed in Section 1910.75 of the Official Rules of the Property Tax Appeal Board. Additional Property Tax Appeal Board decisions may also be accessed via the "Appeal Status Inquiry" link.

The reader should note that a docket number is created as follows: the first two digits indicate the assessment year at issue; the digits following the first hyphen identify the particular case; the letter following the second hyphen indicates the kind of property appealed ("R" for residential, "F" for farm property, "C" for commercial property, and "I" for industrial property), and the number which follows the final hyphen indicates the amount of assessed valuation at issue ("1" indicates less than \$100,000 in assessed valuation is at issue, "2" indicates between \$100,000 and \$300,000 is at issue, and "3" indicates \$300,000 or more is at issue). Thus, a docket number might appear as: 03-01234.001-I-3.

The reader should also note that Property Tax Appeal Board appeals are docketed according to the particular appeal form filed by the appellant rather than on the basis of the kind of property that is the subject matter of the appeal. Thus, a property that is actually an income producing or commercial facility might have a letter in the docket number that is inconsistent with the actual property type in the appeal.

The Property Tax Appeal Board anticipates this volume of the 2015 Synopsis will continue to aid in the understanding of the issues confronted by the Board, and the kinds of evidence and documentation that meet with success.

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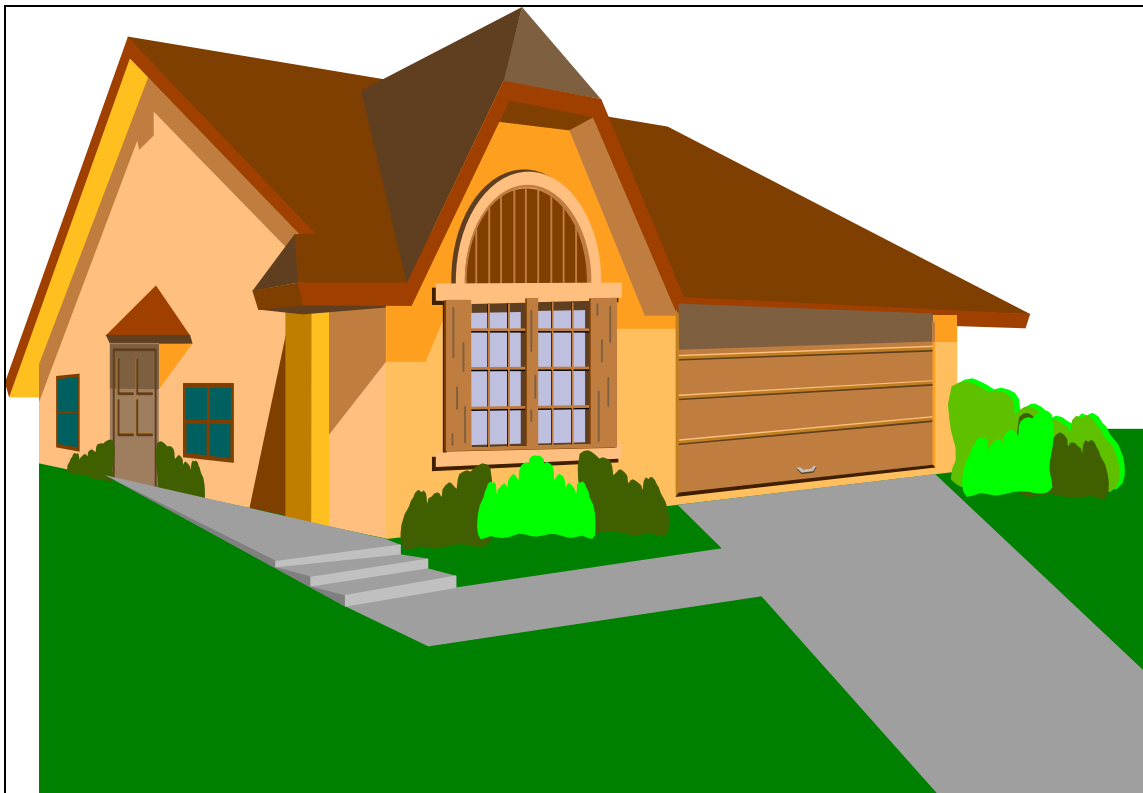
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PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2015 RESIDENTIAL DECISIONS



PROPERTY TAX APPEAL BOARD
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APPELLANT:	<u>Steven Dallas – 161 Main LLC</u>
DOCKET NUMBER:	<u>12-03390.001-R-1</u>
DATE DECIDED:	<u>November, 2015</u>
COUNTY:	<u>McHenry</u>
RESULT:	<u>Reduction</u>

The subject property consists of a 1.5-story (2-Flat) dwelling of frame construction with 1,277 square feet of building area. The structure was constructed in 1900. Features include a full unfinished basement, central air conditioning and a detached garage of 784 square feet of building area. The property has an 8,712 square foot site and is located in Crystal Lake, Nunda Township, McHenry County.

The appellant contends assessment inequity as the basis of the appeal concerning both the land and improvement assessments of the subject property. In support of these arguments, the appellant submitted information on three equity comparables located within two blocks of the subject property.

As to the land inequity argument, the comparable parcels range in size from 7,560 to 8,712 square feet of land area. The parcels have land assessments of \$9,214 each or from \$1.06 to \$1.22 per square foot of land area.

As to the improvement inequity argument, the comparables consist of a one-story and two, 1.5-story buildings of frame construction. The comparables range in age from 109 to 140 years old and range in size from 990 to 1,288 square feet of living area. Each of the comparables has an unfinished basement and one comparable has central air conditioning. Each comparable also has a garage. The comparables have improvement assessments ranging from \$17,218 to \$23,980 or from \$15.74 to \$20.70 per square foot of living area.

Based on this evidence, the appellant requested a land assessment of \$8,800 or \$1.01 per square foot of land area and an improvement assessment of \$22,200 or \$17.38 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$56,755. The subject property has a land assessment of \$9,214 or \$1.06 per square foot of land area and an improvement assessment of \$47,541 or \$37.23 per square foot of living area.

In response to the appeal, the board of review submitted data prepared by the township assessor. The township assessor remarked about the local McHenry County Board of Review procedural rules and the fact that appellant has an "income producing" property but failed to submit income, expense or lease information in accordance with the local board of review rules. Copies of the applicable local rules were attached to the submission.

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

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In written rebuttal, the appellant asserted that he selected similar looking dwellings that were in close proximity to the subject. The appellant acknowledged that the property is currently a "2-Flat" but at one time it was a home which appears like the neighboring properties in the area. As part of the rebuttal, the appellant reported rental information along with applicable leases.

Conclusion of Law

The taxpayer 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 to the subject's improvement assessment, but no reduction is warranted as to the subject's land assessment.

As an initial matter, it is noted that the Property Tax Appeal Board has procedural rules applicable to proceedings pending before it at 86 Ill.Admin.Code §1910.5 et seq. The procedural rules applicable to proceedings before the McHenry County Board of Review are irrelevant and inapplicable to proceedings before the Property Tax Appeal Board. Moreover, the law is clear that proceedings before the Property Tax Appeal Board are de novo "meaning the Board will only consider the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review" (86 Ill.Admin.Code §1910.50(a)). This is similarly applicable to local procedural rules of boards of review.

As to the land inequity argument, the subject parcel is assessed at \$1.06 per square foot of land area and the comparables presented by the appellant range from \$1.06 to \$1.22 per square foot of land area. In this regard, the appellant has failed to establish inequity in the subject's land assessment as the subject's land assessment falls within the range of the appellant's comparables and is identical to appellant's comparable #3 which has an identical land area of 8,712 square feet along with an identical land assessment of \$9,214.

As to the improvement inequity argument, the Board finds the best and only evidence of improvement assessment equity was presented by the appellant. These comparables presented by the appellant had improvement assessments that ranged from \$17,218 to \$23,980 or from \$15.74 to \$20.70 per square foot of living area. The subject's improvement assessment of \$47,541 or \$37.23 per square foot of building area falls above the range established by the only comparables in this record. Based on this record the Board finds the appellant did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is justified.

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APPELLANT:	<u>Sam Digirolamo</u>
DOCKET NUMBER:	<u>12-03779.001-R-1</u>
DATE DECIDED:	<u>May, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>No Change</u>

The subject property consists of a two-story single family dwelling of brick construction that has 4,487 square feet of living area. The dwelling was built in 2009. Features of the home include an unfinished basement, central air conditioning, one fireplace and an attached garage with 701 square feet of building area. The subject property has a 10,912 square foot site and is located in Addison Township, DuPage County.

The appellant was contesting the assessment of the subject property for the 2012 tax year. The appeal was based on a "contention of law" that the subject dwelling's size as determined by the Addison Township Assessor and upheld by the DuPage County Board of Review was incorrect. The appellant contends in the brief that the subject dwelling has 3,786 square feet of living area, not 4,487 square feet of living area as calculated by the assessor. The appellant claimed in the brief that the second story area above the garage is unfinished and should not be included in the total amount of living area. In support of this argument, the appellant submitted a copy of a Plat of Survey, a copy of the blueprint of the subject dwelling and copies of interior photographs of the second floor area above the garage. The blueprint indicates the area above the garage is unfinished. No witnesses were called on behalf of the appellant to testify at the hearing. Based on this evidence the appellant requested the subject's improvement assessment be reduced to \$75,871.

Mr. Schaeffges, the appellant's counsel, stated he had not been inside the subject dwelling. Mr. Schaeffges further stated he did not take the photographs associated with the subject dwelling and that the photographs were taken by the homeowner, who was not present at the hearing. Mr. Schaeffges did not know when the photographs were taken or if the photographs accurately depict the subject property as of January 1, 2012. Mr. Schaeffges did not know whether the dwelling was constructed as per the survey or blue prints.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the final assessment of the subject property totaling \$107,560. Appearing before the Property Tax Appeal Board on behalf of the board of review were Anthony Bonavolonta, Chairman of the Board of Review, and Dawn Aderholt, Deputy Assessor of Addison Township.

In support of the assessment the board of review submitted a copy of the subject's property record card depicting the dwelling as having 4,487 square feet of living area, which included 631 square feet of living area above the garage. The board of review also submitted copies of photographs of the exterior of the subject dwelling that were printed on August 8, 2013. In addition, the board of review submitted a copy of a certified letter dated July 22, 2013, from Dawn Aderholt, residential division manager from the Addison Township Assessor's Office, to Lisa Marino of Marino & Associates, PC, requesting an interior inspection of the dwelling. The board of review asserted there was no response to the letter.

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At the hearing Mr. Bonavolonta asserted that the homeowner refused to allow access to the dwelling for inspection purposes after written request by the assessor's office and asked that the appeal be dismissed.

Aderholt testified she is familiar with the subject dwelling. Aderholt measured the subject dwelling home as it was being constructed. Aderholt testified the size of the dwelling as depicted on the property record card is 4,487 square feet of living area, which includes the finished area above the garage. She testified that she did not gain access to the interior of the home. It was her opinion the interior above the garage was finished based on her inspection, pictures and window treatments. Aderholt testified the photographs of the dwelling submitted on behalf of the board of review were taken sometime in the summer of 2013.

Conclusion of Law

The appellant contends the physical description as to the size of the subject dwelling was incorrect and a reduction in the subject's assessment was warranted based on a "contention of law". The standard of proof is a preponderance of the evidence. (5 ILCS 100/10-15). As an initial matter, the Board finds the appellant did not cite any statutory or legal authority to support the purported "contention of law" that would demonstrate the subject's actual assessed valuation was incorrect regardless of its dwelling size.

Section 1910.63 of the rules of the Property Tax Appeal Board addresses the burden of proof; which provides in part as follows:

- a) Under the principles of a de novo proceeding, the Property Tax Appeal Board shall not presume the action of the board of review or the assessment of any local assessing officer to be correct. However, any contesting party shall have the burden of going forward.
- b) Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. Failure to do so will result in the dismissal of the appeal.
- c) Once a contesting party has provided evidence or argument sufficient to challenge the correctness of the assessment of the subject property, the board of review shall be required to go forward with the appeal. The board of review must provide substantive, documentary evidence or legal argument sufficient to support its assessment of the subject property or some other, alternate valuation. Failure to do so will result in a decision by the Property Tax Appeal Board based upon the information submitted by the contesting party and, if applicable, the evidence submitted by any intervening party. . . . (86 Ill.Admin.Code §1910.63).

As the contesting party, the appellant has the burden of first producing sufficient evidence or argument to challenge the correctness of the assessment. Although the appellant submitted some

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documentation to challenge the assessment when initially filing the appeal, at the hearing there was no testimony to provide foundation for the documents. The appellant called no witnesses to provide any testimony with respect to the disputed finish of the area above the garage as of the assessment date. The record contained copies of photographs purportedly of the area above the garage, but there was no testimony with respect to who took the photographs, when the photographs were taken and whether or not the photographs fairly and accurately depicted the condition of this area as of January 1, 2012. Likewise, the record contained a copy of the Plat of Survey and a copy of the subject's blueprints; however, there was no testimony as to whether these documents truly reflected the nature and finish of the subject dwelling as of the assessment date. The Board finds the appellant did not present any witness that had knowledge of the subject dwelling as of January 1, 2012, to make a prima facie case to prevail and shift the burden of proof to the board of review.

Notwithstanding the appellant's failure to shift the burden of proof, the board of review did present the testimony of Dawn Aderholt who had physically viewed the exterior of the subject dwelling and measured the home. Her testimony was not contradicted by any testimony from the appellant.

During the course of the hearing Chairman Bonavolanta argued the appeal should be dismissed due to the fact the appellant did not respond to the request made by the Addison Township Assessor's Office to inspect the subject dwelling. This argument appears to be founded on section 1910.94(a) of the rules of the Property Tax Appeal Board that provides:

- a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes. (86 Ill.Admin.Code §1910.94(a)).

The Board finds this section is not applicable in this appeal for two reasons. First, the request to inspect the dwelling was made by the township assessor and not the board of review as required by rule. Second, the failure of the taxpayer or owner of the property to allow an inspection only prevents the taxpayer or owner from offering evidence to discredit the board of review description of the physical characteristics of subject property, the rule does not provide for dismissal of the appeal. Based on this evidence and testimony presented in this appeal, the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	Joan M. & Dean J. Dimitri
DOCKET NUMBER:	12-01592.001-R-1
DATE DECIDED:	June, 2015
COUNTY:	Kane
RESULT:	Reduction

The subject property¹ consists of a split-level dwelling of frame construction with 1,767 square feet of living area. The dwelling was constructed in 1974. Features of the home include a partial lower level with finished area, central air conditioning, two fireplaces and an attached two-car garage. The property has a 28,314 square foot site and is located in Elburn, Blackberry Township, Kane County.

The appellants contend both overvaluation and lack of assessment uniformity as the bases of the appeal. In support of the overvaluation argument, the appellants submitted an appraisal estimating the subject property had a market value of \$180,000 as of November 30, 2012. The appraiser utilized the sales comparison approach to value in analyzing four sales and two active listings. One comparable was a split-level dwelling and the remaining comparables were one-story homes. As part of the Addendum, the appraiser wrote:

Due to lack of recent sales in the subject property area of similar split level or raised ranch homes it was necessary to use comparables 1 through 3 and 5 and 6 which are ranch homes. These homes are similar to the subject property in square footage, and bedroom count, and are considered to be similar to the subject property in functional utility.

The comparables in the appraisal range in age from 29 to 55 years old as compared to the subject that is 38 years old. The comparables range in size from 1,119 to 2,121 square feet of living area. The four sales occurred between March and November 2012 for prices ranging from \$154,000 to \$255,000 or from \$96.10 to \$137.62 per square foot of living area, including land. The two listings had asking prices of \$250,000 and \$229,900 or \$124.44 and \$108.39 per square foot of living area, including land. After adjustments for date of sale/time and/or differences in location, lot size, view, condition, room count, dwelling size, basement size/finish and/or garage size, the appraiser reported adjusted sale prices for the comparables from \$163,585 to \$215,820. In his reconciliation, the appraiser considered all of the sales, but gave more weight to comparable #2 due to its recent sales date than to comparable #1 which was presumably listed for less than market value and sold in 12 days "at 2.85% of list price."

In support of the inequity argument, the appellants provided descriptions and assessment information on three comparable properties located within ½-mile of the subject property. One comparable is a one-story dwelling and two comparables were split-level dwellings. The homes were built in 1976 or 1977 and range in size from 1,668 to 1,874 square feet of living area. Each comparable has a basement/lower level, central air conditioning and a two-car garage. Two of

¹ The board of review provided no property record card or other descriptive data concerning the subject property. All descriptive information has been drawn from the appellants' appraisal report and Residential Appeal petition.

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the comparables have a fireplace. The comparables have improvement assessments ranging from \$46,953 to \$49,747 or from \$25.05 to \$29.82 per square foot of living area.

Based on this evidence, the appellants requested a total assessment of \$59,940 which would reflect a market value of approximately \$179,820. The appellants requested an improvement assessment of \$47,523 or \$26.89 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$73,821. The subject's assessment reflects a market value of \$221,352 or \$125.27 per square foot of living area, land included, when using the 2012 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue. The subject has an improvement assessment of \$61,404 or \$34.75 per square foot of living area.

In support of its contention of the correct assessment the board of review submitted documentation from Blackberry Township which noted that the appraisal has an effective date 10 months after the assessment date. Uwe Rotter, Blackberry Township Assessor, submitted a memorandum to the Kane County Board of Review referencing a signed stipulation between the appellant(s) and the township assessor. The stipulation further included a provision to waive any right to a hearing before both the Board of Review as well as waive any right to appeal to the Property Tax Appeal Board or the Courts for the property tax year covered by the stipulation which was 2012. The board of review issued a Final Decision on February 15, 2013 which referenced the statutory provision that the appellants have 30 days to file an appeal, if any, with the Property Tax Appeal Board.

The board of review provided no substantive response to either the appellants' appraisal report or to the equity comparables presented by the appellants.

Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The procedural rules of the Property Tax Appeal Board specify that if a board of review challenges the jurisdiction of the Property Tax Appeal Board, such request for dismissal must be submitted prior to the submission of the Board of Review Notes on Appeal and accompanying documentation. (86 Ill.Admin.Code §1910.40(b)). No objection to jurisdiction was filed by the board of review in accordance with the procedural rules. The board of review timely submitted both its "Board of Review - Notes on Appeal" along with the attached assessor's evidence discussed previously. Therefore, the Property Tax Appeal Board finds that the Kane County Board of Review waived any jurisdictional issue that could have been made concerning the terms of the stipulation the appellant executed with the township assessor in this matter for the 2012 tax year.

The appellants 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

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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 on grounds of overvaluation.

The Board has given little weight to the value conclusion of the appellants' appraisal report. The appraiser relied upon the sales comparison approach to value in estimating the subject's market value, but made inconsistent adjustments to the comparables for differences when compared to the subject property. The Board finds the appraiser made no age adjustments to comparables that ranged in age from 29 to 55 years old whereas the subject was 38 years old. The appraiser made substantial condition adjustments to comparables #2, #4, #5 and #6; the adjustments were explained in the Addendum, in that comparable #2 was reportedly sold in "as-is" condition and comparables #4 through #6 "have received more recent updating to their kitchens." However, also as part of the Addendum, the appraiser wrote "The subject property is similar in condition to all comparables." The appraiser adjusted comparable #3 for land size, but made no land size adjustment to comparable #5. Despite the appraiser's discussion that ranch homes and split-level dwellings were similar, the Property Tax Appeal Board finds that the lack of adjustment for this substantial design difference in the appraisal report is not credible. Furthermore, the adjustments that were made for fireplace amenity differences were inconsistent in the appraisal report when closely examined by the Board.

In summary, the Board finds the inconsistencies and poor analysis of the comparable sales in the appraisal report leads to the conclusion that the appraiser's estimated market value of the subject property is not well-supported or credible on this record. Therefore, the Board finds that the appellant has not established overvaluation by a preponderance of the evidence and no reduction in the subject's assessment is warranted for overvaluation on this record.

The appellants also contend unequal treatment in the subject's assessment as a basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989).

Comparables #2 and #3 submitted by the appellants were most similar to the subject in location, size, style, features and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. The Board gave reduced weight to appellants' comparable #1 as this is a one-story dwelling, different in design from the subject dwelling. These comparables had improvement assessments of \$25.05 and \$29.82 per square foot of living area. The subject's improvement assessment of \$35.70 per square foot of living area is above these most similar comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's improvement assessment is not equitable and a reduction in the subject's assessment is warranted.

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APPELLANT:	<u>Bradley Hampson</u>
DOCKET NUMBER:	<u>14-20839.001-R-1</u>
DATE DECIDED:	<u>November, 2015</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject property consists of a two-story dwelling of masonry construction. The dwelling was constructed in 1950. Features of the home include a full basement, central air conditioning, a fireplace and a two-car garage. The property has a 9,650 square foot site and is located in River Forest Township, Cook County. The subject is classified as a class 2-06 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$430,000 as of April 12, 2013. The appraisal indicates the subject contains 2,422 square feet of living area. In further support of the overvaluation argument, the appellant submitted four sale comparables, two of which are the same comparable properties as are listed in the appellant's appraisal. Lastly, the appellant submitted color photos and a settlement statement. The settlement statement indicates the subject was purchased on June 5, 2013 for a price of \$429,900.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$48,739. The subject's assessment reflects a market value of \$490,825 or \$202.65 per square foot of living area, including land, when applying the 2014 three year average median level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 9.93% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on four comparable sales. The board of review's grid sheet indicates the subject sold in June 2013 for a price of \$429,900.

Conclusion of Law

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

The Board finds the best evidence of market value to be the June 2013 sale of the subject property for a price of \$429,900. Both parties submitted evidence of this sale. In addition, the appellant's appraisal supports this sale price. The Board finds the subject property had a market value of \$429,900 as of the assessment date at issue. Since market value has been established the 2014 three year average median level of assessment for class 2 property under the Cook

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County Real Property Assessment Classification Ordinance of 9.93% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(2).

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APPELLANT:	Paul Hanna
DOCKET NUMBER:	10-29848.001-R-1
DATE DECIDED:	December, 2015
COUNTY:	Cook
RESULT:	No Jurisdiction

The appellant filed the appeal from a decision of the Property Tax Appeal Board (the "Board") pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) challenging the assessment for the 2010 tax year. For the following reasons, the Board finds that it does not have subject matter jurisdiction over this appeal, and that the appeal is dismissed.

The fact that neither party has raised the issue of subject matter jurisdiction is of no consequence. "The failure of a party to object to the lack of subject matter jurisdiction cannot confer jurisdiction upon the court." Univ. of Ill. Hosp. v. Ill. Workers' Compensation Com'n, 2012 IL App (1st) 113130WC, ¶ 8. "Subject matter jurisdiction cannot be waived, stipulated to, or consented to by the parties." Id. Therefore, the Board is authorized to, *sua sponte*, consider the issue of subject matter jurisdiction, and dismiss the appeal for lack of subject matter jurisdiction.

The appellant's request for relief seeks the issuance of a certificate of error for tax year 2009. The appellant argues that the subject received a reduction for tax year 2009 from the Cook County Board of Review, but that the reduced assessment was not reflected on the subject's second installment tax bill for tax year 2009. The appellant did not submit any evidence regarding the subject's assessment for tax year 2010.

The appellant does not cite any legal authority which grants the Board the authority to direct the Cook County Assessor to issue a certificate of error. Moreover, the Board is not aware of any such authority. Instead, the Property Tax Code provides that the Assessor or the board of review with an endorsement from the Assessor may issue a certificate of error. 35 ILCS 200/14-15 (Assessor); 35 ILCS 200/16-75 (board of review).

As such, the Board does not have subject matter jurisdiction to address the relief sought by the appellant. Therefore, the Board does not have subject matter jurisdiction over the appeal, and the appeal is dismissed. The Board makes no findings of fact or conclusions of law based on the evidence submitted by the parties in this appeal.

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APPELLANT:	<u>William & Mary Higgins</u>
DOCKET NUMBER:	<u>11-00848.001-R-1</u>
DATE DECIDED:	<u>February, 2015</u>
COUNTY:	<u>Knox</u>
RESULT:	<u>Reduction</u>

The subject property consists of a 1.5-story dwelling of frame construction with 1,440 square feet of living area. The dwelling was constructed in 1948. Features of the home include a full unfinished basement and a detached three-car garage.¹ The property has a 14,940 square foot site and is located in Galesburg, City of Galesburg Township, Knox County.

The appellants' appeal is based on overvaluation. In support of this argument, the appellants submitted evidence disclosing the subject property was purchased on May 17, 2011 for a price of \$32,000. In addition, the appellants presented a grid analysis of four additional comparable sales located within 2.1-miles of the subject property to establish that the subject was overvalued. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$22,240. The subject's assessment reflects a market value of \$66,467 or \$46.16 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Knox County of 33.46% as determined by the Illinois Department of Revenue.

In rebuttal, the board of review reported that it was their policy/practice to never make "adjustments for a sale, to any property, until the year after the sale. If the sale was an arm's length transaction, and after a sales study was completed, the property proved to need an adjustment, increase or reduction, then at the Township Assessor's level the year following the sale, the Assessor would adjust the assessment." Furthermore, the board of review reported that the subject's assessment was adjusted for 2012.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales and also submitted documentation that the subject property sold in June 2010 for \$78,252 to explain its 2011 assessment.

Based on the foregoing evidence and the policy/practice of the board of review, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellants reiterated their contention that the recent sale price is the best evidence of the subject's market value.

¹ While some contradictory characteristics were reported by the board of review for the subject dwelling, the Board finds the best evidence was presented in the characteristics sheet submitted by the board of review and the descriptive information provided by the appellants. The subject dwelling did not have central air conditioning or a fireplace at the time of purchase.

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Conclusion of Law

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

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill. App. 3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill. 2d 158, 161, 226 N.E.2d 265, 267 (1967). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). In light of this holding, the comparable sales submitted by both parties were given less weight.

The Board finds the best evidence of market value to be the purchase of the subject property in May, 2011 for a price of \$32,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellants completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor from Countryside, agent Robert Andrews, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 147 days. The appellants also submitted a copy of the Settlement Statement that reiterated the purchase price and date of purchase.

In further support of the purchase price, the appellants reported that numerous upgrades and improvements have been made to the subject dwelling since the date of purchase in order to make the dwelling habitable. The Board further finds that these improvements made subsequent to the purchase support that the purchase price was reflective of the property's market value as of the assessment date at issue of January 1, 2011.

The Board finds the purchase price of \$32,000 is below the market value reflected by the assessment of \$66,467. Furthermore, the Board finds the board of review did not present any evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value.

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Based on this record the Board finds the subject property had a market value of \$32,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for Knox County of 33.46% shall apply. 86 Ill.Admin.Code §1910.50(c)(1).

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APPELLANT:	Jean Jodoin
DOCKET NUMBER:	11-05909.001-R-1
DATE DECIDED:	January, 2015
COUNTY:	Will
RESULT:	Reduction

The subject parcel is improved with a two-story single family brick dwelling that contains approximately 4,284 square feet of living area. The dwelling is 13 years old and features a basement, central air conditioning, a fireplace and an attached three-car garage. The property is located in Naperville, Wheatland Township, Will County.

The appellant's appeal is based on both a contention of law and upon overvaluation. As to the contention of law, counsel for the appellant argued that the 2010 assessment of the subject property was reduced and this appeal for 2011 is being filed within 30 days of the decision of the Property Tax Appeal Board. Moreover, counsel argued that the 2010 decision was based upon the recent sale price and this 2011 decision should likewise be based upon this recent arm's length sale transaction.

Additionally, in support of the overvaluation argument, the appellant completed Section IV indicating the subject property was purchased in September 2010 for a price of \$410,000 or \$95.70 per square foot of living area, including land. The appellant indicated the subject property was sold by Mary K. Kopp, the parties to the transaction were not related and the property was sold using ReMax of Naperville with agent Martha Lopez. The copy of the City Transfer Tax, real estate contract and Settlement Statement each disclosed a sales price of \$410,000.

Based upon this evidence, the appellant requested an assessment of \$136,284 which would be reflective of the September 2010 purchase price and the 2010 assessment decision of the Property Tax Appeal Board.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$205,850. The subject's assessment reflects a market value of \$619,843 or \$144.69 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Will County of 33.21% as determined by the Illinois Department of Revenue.

In rebuttal, the board of review through the Wheatland Township Assessor's Office submitted a memorandum arguing that the 2010 assessment decision of the Property Tax Appeal Board does not apply to the subject's 2011 assessment because 2011 was a quadrennial reassessment year.

In support of its contention of the correct assessment, on behalf of the board of review the assessor argued that the 2010 sale price of the subject property was "substantially under the market average in this subdivision." The assessor also reported that the subject property sold again in August 2011 for \$623,000. A copy of the PTAX-203 Illinois Real Estate Transfer Declaration indicated that the subject property was advertised prior to this sale in August 2011.

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Based on this latest sale of the subject property, while the 2011 assessment may be too low, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant argued that the sale relied upon by the assessing officials occurred nine months after the lien date of January 1, 2011. Counsel then concludes that "our request for rollover should be sustained."

Conclusion of Law

As to the appellant's legal contention, the Board finds that pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), a taxpayer may file within 30 days of the date of written notice of the Property Tax Appeal Board's decision an appeal for the subsequent year when the Property Tax Appeal Board rendered a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review.

There is no dispute on the record that the subject property was under appeal before the Property Tax Appeal Board in the prior year under Docket Number 10-00489.001-R-1 wherein the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$136,284 based on the September 2010 sale of the subject property for \$410,000.

The appellant also presented a legal contention that the Board's prior year decision for 2010 should be carried forward to the subsequent year of 2011 in accordance with Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) which provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such 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 that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. [Emphasis added.]

The Board finds that the evidence submitted by the Will County Board of Review establishes that 2010 and 2011 are not within the same general assessment period in Will County. In conclusion, the record contains evidence that the assessment year in question, 2011, is in a different general assessment period than 2010. For these reasons the Property Tax Appeal Board finds that Section 16-185 of the Property Tax Code is not applicable to the instant appeal for tax year 2011 for purposes of a "rollover," although a timely 2011 appeal was filed in accordance with the provisions of Section 16-185 for a "direct appeal."

The appellant also contends 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

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or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant contends the subject's assessment should be reduced based on the sale of the subject of \$410,000 in September 2010. The evidence also disclosed that the subject sold for \$623,000 in August 2011. Thus, the sale of the subject reported by the appellant occurred about 4 months before the assessment date at issue and the sale of the subject reported by the board of review occurred about 7 months after the assessment date at issue.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club v. Property Tax Appeal Board, 263 Ill.App.3d 410, 418 (4th Dist. 1994); see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill.2d 158, 161, 226 N.E.2d 265, 267 (1967).

A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983); People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970); People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). In light of this holding, the August 2011 sale of the subject property submitted by the board of review has been given less weight as the Property Tax Appeal Board finds this later sale of the subject presented by the board of review for \$623,000 is less proximate in time to the assessment date of January 1, 2010 than the sale of the subject property in September 2010 for \$410,000.

In conclusion, the Board finds the best evidence of the subject's fair market value in the record as of January 1, 2011 is the September 2010 sale for \$410,000. The subject's assessment reflects an estimated market value of approximately \$619,843, which is higher than its September 2010 sale price that occurred approximately four months prior to the lien date. Therefore, based on this evidence, the Board finds a reduction in the subject's 2011 assessment is warranted. Since the fair market value of the subject of \$410,000 has been established as of January 1, 2011, the Board finds that the 2011 three-year median level of assessments for Will County of 33.21% shall apply.

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APPELLANT:	William Krueger
DOCKET NUMBER:	14-20010.001-R-1
DATE DECIDED:	November, 2015
COUNTY:	Cook
RESULT:	Reduction

The subject consists of a one-story dwelling of masonry construction with 2,080 square feet of living area. The dwelling is 31 years old. The property has an 8,576 square foot site, and is located in Oak Lawn, Worth Township, Cook County. The subject is classified as a class 2-04 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant submitted information on three equity comparables. They ranged in improvement assessment per square foot from \$7.09 to \$8.47.

The appellant also contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted evidence disclosing the subject property was purchased in a cash transaction on May 22, 2013, pursuant to a foreclosure, for a price of \$167,810. The settlement statement indicates the Seller as Wells Fargo Bank, NA. Real estate brokers were involved in this transaction, with the subject being listed on the Multiple Listing Service for 60 days.

The appellant also included a sales report from Core Logic estimating the value of the subject at \$171,400. This report listed three sales in the subject's neighborhood. They ranged: in living area from 1,707 to 1,751 square feet; in sale date from October 2012 to August 2013; and in sale price from \$196,000 to \$227,000, or from \$114.82 to \$129.64 per square foot, including land.

The appellant also included sales data for the three equity comparables listed on the grid sheet. These comparables ranged: in living area from 1,894 to 2,185 square feet; in sale date from March 2012 to August 2014; and in sale price from \$159,000 to \$180,000, or from \$72.77 to \$93.32 per square foot, including land. Based on this evidence, the appellant requested a reduction in the subject's assessment based on overvaluation.

The board of review submitted its "Board of Review-Notes on Appeal" disclosing the total assessment for the subject of \$24,099. The subject's assessment reflects a market value of \$242,689, or \$116.68 per square foot of living area, including land, when applying the 2014 three year average median level of assessment of 9.93% as determined by the Illinois Department of Revenue. The subject property has an improvement assessment of \$19,811 or \$9.52 per square foot of living area.

In support of its contention of the correct assessment the board of review submitted information on four equity comparables. They ranged in improvement assessment per square foot from \$10.20 to \$11.76.

The board of review also submitted sales data for four additional properties. These comparables were similar to the subject in size, age, design, and amenities. They sold from April 2011

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through August 2012 for prices ranging from \$224,000 to \$285,000, or from \$116.95 to \$132.50 per square foot, including land.

The board of review also enclosed evidence arguing the subject's sale was not at fair market value, including: a memorandum regarding the subject's foreclosure status; a deed trail showing a *lis pendens* on the subject property; the City of Chicago Real Property Transfer Tax Declaration; and a listing from Redfin.com. Based on this evidence, the board requested confirmation of the subject's assessment.

Conclusion of Law

The taxpayer 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be the appellant's comparables #1 and #3, as well as board of review's comparables #1 through #4, as they are most similar to the subject in size, design, location, and amenities. They had improvement assessments that ranged from \$7.09 to \$11.76 per square foot of living area. The subject's improvement assessment of \$9.52 per square foot of living area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified on this basis.

The appellant also contends 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 meet this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds that the sale of the subject in May 2013 for \$167,810 was a "compulsory sale" by the appellant's own admission through their documentation, as well as through evidence supplied by the board of review. A "compulsory sale" is defined as:

- (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

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Additionally, real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 2011 IL App (2d) 100068, ¶ 36 (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill.App.3d 207, 211 (2d Dist. 1979)).

However, when there is a recent sale of the subject, and that sale is a foreclosure, the Board may consider evidence which would show whether the sale price was representative of the subject's fair cash value. See 35 ILCS 200/16-183 ("The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer."). Such evidence can include the descriptive and sales information for recently sold properties that are similar to the subject. See id. In this case, both parties submitted sales data as evidence of the subject's fair cash value. The Board finds the best evidence of market value to be appellant's comparables #1 and #3 through #6, as well as the board of review's comparable #1. The most similar comparables sold for prices ranging from \$72.77 to \$129.64 per square foot of living area, including land. The subject's sale price of \$80.68 per square foot, including land, is within the range of these sales comparables. This indicates the subject's sale price is at fair market value. Accordingly, the Board finds the appellant has proven by a preponderance of the evidence that the subject is overvalued and a reduction is warranted on this basis.

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APPELLANT:	<u>Albert La Valle</u>
DOCKET NUMBER:	<u>11-03144.001-R-1</u>
DATE DECIDED:	<u>February, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>No Change</u>

The subject property is improved with a part two-story, part one-story and part 2.5-story single family dwelling of frame and brick construction with 4,520 square feet of living area. The dwelling was constructed in 2000. Features of the home include a full basement that is finished, central air conditioning, three fireplaces and a three-car attached garage. The property is located in Clarendon Hills, Downers Grove Township, DuPage County.¹

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Michael R. Berg estimating the subject property had a market value of \$1,075,000 as of December 31, 2010, using the cost approach to value and the sales comparison approach to value. Berg was called as a witness.

Berg is an Illinois licensed appraiser and a licensed broker. He has been a licensed appraiser for approximately 10 years. Berg testified he has an associate real estate trainee appraiser license, the lowest designation. Berg is a staff appraiser with Adams Valuation Corporation. The witness has appraised residential, commercial and industrial properties.

Berg inspected the subject property September 9, 2011. He testified the subject is located on the eastern border of Clarendon Hills near Kingery Highway/Route 83 and ½ block from the railroad. Berg testified that properties along Kingery Highway are exposed to noise due to traffic. The subject is approximately one block from Kingery Highway and the appraiser explained that traffic noise can be heard outside of the home but not inside the home.

With respect to the yard, Berg testified the home was pushed to the back of the lot, meaning it is on the corner with a bigger front and side lot but a small back yard.

In estimating the market value of the subject property under the cost approach the appraiser first estimated the value of the land to be \$25.00 per square foot of land area or \$380,000. The appraiser referenced three land sales in the report as support for his estimate of land value. The appellant's appraiser estimated the reproduction cost new of the improvements to be \$818,908 using Marshall & Swift's Residential Cost Handbook. He described the quality rating of the subject as good. Physical depreciation was estimated to be 9% of reproduction cost new or \$73,702 using an effective age of 5 years and an economic life of 55 years. Deducting depreciation resulted in a depreciated cost of the improvements of \$745,206. The value of the site improvements was estimated to be \$8,000. Adding the components resulted in an estimated value under the cost approach of \$1,133,206.

¹ The appraiser indicated the subject property had 15,221 square feet of land area while the board of review evidence indicated the subject had 13,963 square feet of land area.

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The appraiser developed the sales comparison approach using three comparable sales that were located in Clarendon Hills. The appraiser described the comparables as being improved with one two-story dwelling and two three-story dwellings that ranged in size from 3,857 to 4,693 square feet of living area. The comparable dwellings were either 4 or 7 years old. The subject property was described as being average+ condition, with average functional utility and average upgrades. The comparables were described as being in average+ condition, average+ functional utility and having average to excellent upgrades. Each comparable had a full basement with finished area, central air conditioning, a two or three-car garage and from 1 to 4 fireplaces. The sales occurred from September 2009 to December 2010 for prices ranging from \$1,055,000 to \$1,225,000 or from \$229.35 to \$317.60 per square foot of living area, including land. In the report and during the hearing the appraiser described the adjustments to the comparables for time of sale, differences from the subject dwelling and location, which was set forth as functionally utility. The appraiser arrived at adjusted prices ranging from \$1,068,400 to \$1,184,000. Based on these sales, giving most weight to sales #1 and #2, the appraiser arrived at an estimate of value under the sales comparison approach of \$1,075,000.

In arriving at his conclusion of value the appraiser gave most weight to the sales comparison approach.

Under cross-examination the appraiser indicated the subject and the comparables had average locations. He also explained that he did not adjust the comparables for differences in site because when people purchase a home the yard is not one of the biggest factors unless there is a considerable difference. The appraiser acknowledged he did not discuss the noise issue due to location near Kingery Highway and the metra railroad tracks in the report. He also agreed he made no adjustments for external obsolescence in the cost approach, which is usually for location issues. He also explained that the adjustment to the comparables for functional utility was based on the subject's land with a minimal backyard and did not relate to the structure. He made no location adjustment to the comparables and no adjustment to the comparables for land size.

As an alternative argument the appellant contends assessment inequity with respect to the improvement assessment. Attached to the appellant's petition was a grid analysis in support of the appellant's assessment inequity argument in which the appellant identified six comparables, three of which were the comparable sales contained in the appellant's appraisal. The comparables were described as being improved with part two-story and part one-story or part two-story, part three-story and part one-story dwellings that ranged in size from 3,857 to 4,735 square feet of living area. The dwellings were constructed from 1992 to 2007. These properties had improvement assessments ranging from \$271,880 to \$355,610 or from \$64.47 to \$75.29 per square foot of living area.

The grid also included what were described as the Assessor Comparables that were improved with two part two-story and part one-story dwellings and two part two-story, part three-story and part one-story dwellings that ranged in size from 3,595 to 4,674 square feet of living area. The dwellings were built from 2005 to 2009. These properties had improvement assessments ranging from \$279,710 to \$367,260 or from \$72.69 to \$80.00 per square foot of living area.

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Also submitted by the appellant was a separate grid analysis of the subject and eight comparable properties. The comparables had improvement assessments ranging from \$271,810 to \$367,420 or from \$70.67 to \$87.34 per square foot of living area. The subject has an improvement assessment \$350,590 or \$77.56 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$440,660. The subject's assessment reflects a market value of \$1,329,291 or \$294.09 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue. The subject had a land assessment of \$90,070 and an improvement assessment of \$350,590 or \$77.56 per square foot of living area. Appearing before the Property Tax Appeal Board on behalf of the board of review were board member Charles Van Slyke and the Chief Deputy Assessor of Downers Grove Township, Joni Gaddis.

In support of its contention of the correct assessment the board of review submitted information on seven comparable sales. Comparables #1 through #5 were improved with two part two-story and part one-story single family dwellings and three part two-story, part three-story and part one-story dwellings of frame or brick construction that ranged in size from 3,595 to 4,674 square feet of living area. The dwellings were constructed from 2005 to 2009. Each property had a full or partial finished basement, central air conditioning, one to four fireplaces and a garage that ranged in size from 480 to 694 square feet of building area. These properties were located in Clarendon Hills and had sites ranging in size from 9,525 to 17,100 square feet of land area. The sales occurred from June 2008 to August 2010 for prices ranging from \$1,205,000 to \$1,700,000 or from \$293.08 to \$363.71 per square foot of living area, including land. During the hearing Ms. Gaddis acknowledged that sales #4 and #5 occurred in June 2008 and June 2009 and that most reliance was placed on sales #1 through #3.

Board of review comparables #1 through #5 had improvement assessments ranging from \$279,710 to \$367,260 or from \$68.06 to \$80.00 per square foot of living area.

Gaddis also explained that board of review comparable sales #6 and #7 were considered land sales. These two comparables had 9,060 and 18,269 square feet of land area, respectively. At the time of sale the comparables were improved with single family dwellings that were razed following the transactions. The sales occurred in January 2011 for prices of \$320,000 and \$480,000 or for \$35.32 and \$26.27 per square foot of land area, respectively.

Gaddis testified that appraisal sale #2 was located near Ogden Avenue and "two doors down from a huge commercial complex" and across from a golf course. She also testified that appellant's appraisal comparable sales #2 and #3 were located north of Chicago Avenue in different assessment neighborhoods. The subject property is located south of Chicago Avenue.

Also submitted by the board of review was a narrative indicating that assessments for properties within the same neighborhood code are calculated using the same cost manual and market driven cost modifiers. The narrative also set forth the various adjustments for different classes, different exteriors and different amenities. Using these variables the adjusted building assessments were calculated for the comparables submitted by the parties. Included with the board of review submission were copies of the property record cards for six of the appellant's comparables and

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the comparables used by the board of review as well as copies of maps noting the location of the subject and the comparables submitted by the parties.

The board of review requested confirmation of the subject's assessment.

Under cross-examination Gaddis agreed that she was not an appraiser and that the sales used were not adjusted. Gaddis testified that the sales were verified using the PTAX-203 form (Illinois Real Estate Transfer Declaration) from the Recorder's Office, which is referenced on the property record card. The PTAX-203 forms were not submitted.

She agreed that the neighborhood code was determined by the assessor's office, which may differ from what another person would determine the neighborhood to be. Gaddis was also questioned about the data reported on the property record cards and acknowledged the disclaimer on the bottom of the cards with respect to the accuracy of the data.

Gaddis also agreed that sales #1 and #2 were located closer to Prospect Park than the subject property.

Gaddis agreed that the assessment ratio for comparable sale #3, comparing the sale price to the assessment, was approximately 24%. She also agreed this comparable had a total assessment less than the subject. Gaddis also agreed that comparable sale #2 had a total assessment less than the subject property.

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 is not warranted.

The Board finds the best evidence of market value to be appraisal comparable sale #2 and board or review sales #1 through #3. These comparables were improved similar styled dwellings as the subject property and sold most proximate in time to the assessment date at issue. The comparables ranged in size from 3,595 to 4,693 square feet of living area and were constructed from 2005 to 2009. The sales occurred from January 2010 to December 2010 for prices ranging from \$1,205,000 to \$1,700,000 or from \$241.42 to \$363.71 per square foot of living area, including land. The subject's assessment reflects a market value of \$1,329,291 or \$294.09 per square foot of living area, land included, which is within the range established by the best comparable sales in the record. In reviewing these most similar sales the Board finds the subject's assessment reflects a value below three of the four comparables on a square foot basis, which would seem to account for the location issues and lot functional utility, if any. Based on this evidence the Board finds a reduction in the subject's assessment based on overvaluation is not justified.

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As an alternative argument the appellant contends assessment inequity with respect to the improvement assessment. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989); 86 Ill.Admin.Code 1910.63(e). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The Board finds the record contains information on six comparables identified by the appellant and five comparables identified by the board of review that had varying degrees of similarity to the subject property. These properties had improvement assessments that ranged from \$66.29 to \$80.00 per square foot of living area. The subject's improvement assessment of \$77.56 per square foot of living area falls within the range established by these comparables.

The appellant also submitted a separate analysis of the subject and eight comparable properties. The comparables had improvement assessments ranging from \$271,810 to \$367,420 or from \$70.67 to \$87.34 per square foot of living area. The subject has an improvement assessment \$350,590 or \$77.56 per square foot of living area, which is within the range of the comparables.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. 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 exists on the basis of the evidence in this record.

In summary, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement assessment was inequitable and a reduction in the subject's assessment is not justified on this basis.

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APPELLANT:	<u>Demetrios Metropoulos</u>
DOCKET NUMBER:	<u>10-22913.001-R-1</u>
DATE DECIDED:	<u>November, 2015</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject property consists of a 1,720 square foot parcel of land improved with a 121-year old, two-story, masonry, single-family dwelling containing 2,688 square feet of living area. The property is located in Lake View Township, Cook County and is a class 2-10 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on inequity and overvaluation. In support of the market value argument the appellant submitted evidence disclosing the subject property was purchased in June 2007 for a price of \$990,000. Based on this evidence, the appellant requested a reduction in the subject's assessment.

In support of the inequity argument, the appellant submitted five equity comparables.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$122,643 with an improvement assessment of \$102,691 or \$38.20 per square foot of living area. The subject's assessment reflects a market value of \$1,371,846 using the Illinois Department of Revenue's three-year median level of assessment for class 2, residential property of 8.94% for tax year 2010.

In support of its contention of the correct assessment the board of review submitted three equity comparables.

Conclusion of Law

The appellant contends 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 is not warranted.

The Board finds the sale of the subject in June 2007 is too far removed from the January 1, 2010 lien date to accurately reflect the subject's market value as of this lien date. Therefore, the Board finds the appellant failed to meet his burden and a reduction is not justified.

The taxpayer also 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

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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 that appellant's comparable #5 and the board of review's comparable #3 are the same property. The Board further finds that the best evidence of assessment equity to be the appellant's comparables #2, #4, and #5 and the board of review's comparable #3. These comparables have improvement assessments ranging from \$30.23 to \$32.34 per square foot of living area. In comparison, the subject has an improvement assessment of \$38.20 per square foot which falls above the range established by the best comparables in this record. Based on this record the Board finds the appellant demonstrated with clear and convincing evidence that the subject's improvements were inequitably assessed and a reduction in the subject's assessment is justified.

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APPELLANT:	<u>Debora Newman</u>
DOCKET NUMBER:	<u>11-01508.001-R-2 thru 11-01508.002-R-2</u>
DATE DECIDED:	<u>February, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>Reduction</u>

The subject property consists of two parcels one of which is improved with a part one-story and part two-story dwelling of brick construction with 7,042 square feet of living area. The dwelling was constructed in 2004. Features of the property include a full basement that is 90% finished, central air conditioning, five fireplaces, an attached two-car garage, a detached three-car garage, an in-ground swimming pool and a pool house. The subject has a combined garage area of 1,380 square feet. The property has a total land area of 75,210 square feet or 1.73 acres and is located in Hinsdale, Downers Grove Township, DuPage County.

Appearing before the Property Tax Appeal Board on behalf of the appellant was attorney Thomas J. McCracken, Jr., arguing overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Joseph V. Parker estimating the subject property had a market value of \$3,000,000 as of January 1, 2011. Parker testified he is a Certified General Appraiser licensed in the State of Illinois.

In appraising the subject property Parker testified that there is a small pool house located on the subject property that he did not mention in the summary appraisal. He also testified he observed the detached garage on the subject property and agreed the garage has a small second story living area. The appraiser testified the garage was built in 1964 according to the assessor's records. Parker testified he did not make reference to the small living area above the garage in the narrative. The witness testified, however, he accounted for those characteristics in arriving at his conclusion.

In estimating the market value of the subject property the appraiser developed the sales comparison approach using five comparable sales located in Oak Brook and Hinsdale. The comparables were described as being improved with 2-story or 2.5-story dwellings that ranged in size from 5,482 to 9,684 square feet of living area and in age from four to thirteen years old. Each comparable had a full finished basement, central air conditioning and a three-car or a four-car garage. Comparable #1 had a 1.20 acre site and the remaining comparables had sites ranging in size from .44 to .54 of an acre. The sales occurred from August 2010 to August 2011 for prices ranging from \$2,000,000 to \$3,000,000 or from \$309.79 to \$447.92 per square foot of living area, including land. After making adjustments to the comparables for differences in land area and features the appraiser estimated the comparables had adjusted prices ranging from \$2,494,300 to \$3,406,700. Based on these sales the appraiser was of the opinion that the subject property had a market value of \$3,000,000 as of January 1, 2011.

In explaining his adjustments Parker testified that the differences in site size were adjusted at \$350,000 per acre. He explained that he was not contending that this is the underlying land value but the incremental value for surplus land at the site. The appraiser testified that the reference in the appraisal to an adjustment of \$300,000 per acre was a typo.

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Under cross-examination Parker testified there was no sketch in the appraisal because he used the assessor's size which was verified at the time of inspection. Parker testified the \$350,000 land adjustment was based on an analysis of the market data, which is not in the appraisal because it is a summary report. He testified that the data used to make the adjustments in the appraisal were not in the report because it is a summary appraisal rather than a self-contained report.

The appraiser testified the \$30,000 pool adjustment included the pool, pool house and the area around the pool which included the 2,500 square feet of decking. He testified this amount is the contributory value of these features.

The appellant's appraiser also testified the 400 square feet of living area above the 50 year-old garage is an area that the market does not demand and little value is given to this area. Parker testified there was no occupant in this area at the time he did his inspection.

With respect to his adjustments, the appraiser testified that there is a large adjustment given for the lot size.

The appraiser also testified the subject has a 4,591 square foot basement that is 90% finished. He also explained the cost approach was not developed because of age even though the home was only seven years old. Parker testified to develop the cost approach you have to determine an appropriate depreciation from proper market data. He did not think the age life method would be accurate. He further testified the comparables were physically inspected from the street.

The witness explained his comparable sale #1 was located in Oak Brook, which is a comparable neighborhood. He explained he needed the sale to bracket the size and this was also the closest he could find in lot size.

The appraiser also explained the additional land at the subject property was considered surplus land, which is land that is not necessary or not what the market requires for the improvements. He also explained the adjustments to the comparables were market derived and not cost based.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$1,198,160. The subject's assessment reflects a market value of \$3,614,359 or \$513.26 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

Appearing on behalf of the board of review were board member Charles Van Slyke and the Chief Deputy Assessor of Downers Grove Township, Joni Gaddis. Gaddis testified the majority of the subject dwelling is a one-story home. She also testified the subject has an 828 square foot detached garage constructed in 1964 with an apartment on the second floor. She further testified the subject property has a 1,680 square foot in-ground swimming pool surrounded by 2,125 square feet of brick pavement and a 312 square foot pool house.

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In rebuttal the board of review submitted a narrative statement prepared by Gaddis critiquing the sales contained in the appellant's appraisal.

In support of its contention of the correct assessment the board of review submitted information on six comparable sales identified by the Downers Grove Township Assessor's Office. Assessor comparable sales #2 and #3 are the same properties as appellant's appraisal comparable sales #3 and #4, respectively. Assessor comparable sales #1 through #4 were improved with one part two-story and part one-story dwelling and three part one-story, part 2-story and part 3-story dwellings that ranged in size from 5,908 to 7,339 square feet of living area. Each comparable had a basement with finished living area, central air conditioning, 3 to 5 fireplaces and garages ranging in size from 653 to 1,000 square feet of building area. These properties had sites ranging in size from 19,200 to 31,700 square feet or from approximately .44 to .73 acres. The sales occurred from February 2009 to March 2011 for prices ranging from \$2,000,000 to \$2,950,000 or from \$335.68 to \$447.72 per square foot of living area, including land.

Assessor comparable sales #5 and #6 were described as land sales. These properties sold in March 2010 and June 2011 for prices of \$1,820,000 and \$1,250,000 or for \$60.32 and \$50.73 per square foot of land area, respectively.

Conclusion of Law

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

The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The Board finds the appraiser's testimony with respect to his selection of the comparables and the adjustments made for differences from the subject were credible. The Board finds of the four improved comparables submitted by the board of review, two were used in the appellant's appraisal, which gives credence to the appraiser's estimate of value. The Board also finds board of review sale #1 sold in February 2009, almost two years prior to the assessment date at issue and is to be given little weight. The remaining sale submitted by the board of review sold for a unit price of \$423.15 per square foot of living area including land, which tends to support the appraiser's conclusion of value of \$3,000,000 or \$427.11 per square foot of living area, including land. Based on this record the Board finds the subject property had a market value of \$3,000,000 as of January 1, 2011. Since market value has been established the 2010 three year average median level of assessments for DuPage County of 33.15% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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APPELLANT:	<u>Sundeep Oberoi</u>
DOCKET NUMBER:	<u>11-05974.001-R-1</u>
DATE DECIDED:	<u>January, 2015</u>
COUNTY:	<u>Will</u>
RESULT:	<u>Reduction</u>

Statement of Jurisdiction

The appellant timely filed this 2011 appeal from a 2010 decision of the Property Tax Appeal Board pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) allowing for a direct appeal to the Board within 30 days. 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 parcel is improved with a 12-year-old, one-story frame townhouse "end unit" that contains approximately 1,164 square feet of living area. Features include a partial basement with finished area, central air conditioning, a fireplace and an integral two-car garage. The property is located in Aurora, Wheatland Township, Will County.

The appellant contends the market value of the subject property is not accurately reflected in the property's assessed valuation. In support of the overvaluation argument, the appellant completed Section IV - Recent Sale Data of the appeal form stating the property was purchased in May 2010 for a price of \$125,000. The appellant stated the property was sold by Fannie Mae through a Realtor Re/Max Professionals, by agent Ed Lukasik, Jr. and was advertised for sale for 42 days in the Multiple Listing Service. A copy of the Settlement Statement was submitted which depicted the purchase price as \$125,000 with a closing date in May 2010.

Based on this evidence, the appellant requested a reduction in the subject's 2011 assessment to approximately reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$53,840. The subject's assessment reflects a market value of \$162,120 or \$139.28 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Will County of 33.21% as determined by the Illinois Department of Revenue.

The board of review submitted a letter citing to Section 16-160 of the Property Tax Code (35 ILCS 200/16-160) and alleging that this appeal should be dismissed. According to the board of review, the Property Tax Appeal Board does not have jurisdiction because the appellant did not pursue an appeal for 2011 with the Will County Board of Review and did not receive a 2011 Board of Review Final Decision letter.

In addition, the board of review submitted a memorandum prepared by the Wheatland Township Assessor's Office. As part of the memorandum, the assessor contended the sale of the subject

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property was a foreclosure which was recorded by a Special Warranty Deed. According to the assessor, these facts "should have excluded this appellant from being reduced [to] their sale" for the 2010 appeal before the Property Tax Appeal Board.

Furthermore, in support of the contention of the correct assessment for 2011, the assessor provided portions of two mortgage documents reflecting that in 2012 the appellant took out a mortgage on this property for \$385,000 and another mortgage in 2013 for \$330,000. In light of these mortgages, the assessor contended "the value of this property is more than the \$125,000 that appellant is seeking."

Finally, the assessor provided a spreadsheet with information on three comparable sales located in the same neighborhood code assigned by the assessor as the subject property. The comparables consist of similar frame dwellings to the subject that were built in 2001 and 2003. The comparables each contain 1,164 square feet of living area and feature basements, central air conditioning and a two-car garage. These comparables sold between February 2010 and October 2010 for prices ranging from \$155,900 to \$166,000 or from \$133.93 to \$142.61 per square foot of living area, including land.

In summary, the board of review requested dismissal of this appeal based upon Section 16-160 of the Property Tax Code.

Conclusion of Law

As to the board of review's legal contention and dismissal request, the Property Tax Appeal Board finds that pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), a taxpayer may file within 30 days of the date of written notice of the Property Tax Appeal Board's decision an appeal for the subsequent year when the Property Tax Appeal Board rendered a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review.

There is no dispute on the record that the subject property was under appeal before the Property Tax Appeal Board in the prior year under Docket Number 10-00263.001-R-1 wherein the Property Tax Appeal Board rendered a decision on March 22, 2013 lowering the assessment of the subject property to \$41,550 based on the May 2010 sale price of the subject property.

For these reasons the Property Tax Appeal Board finds that Section 16-185 of the Property Tax Code authorized the filing of this 2011 assessment appeal which the appellant postmarked on April 19, 2013. Therefore, the Board finds that it has jurisdiction and there is no basis upon which to dismiss this appeal as argued by the board of review.

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

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With regard to the nature of the subject's sale having been due to foreclosure, the Property Tax Appeal Board takes judicial notice of Public Act 96-1083 which amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

Section 16-183 provides:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

The Board finds the effective date of these statutes is applicable to assessment date at issue, January 1, 2011. Moreover, the Board finds this language instructive with regard to the sale of the subject property in 2010 with respect to this 2011 assessment appeal of the subject property.

The Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in May, 2010 for a price of \$125,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The Property Tax Appeal Board finds the sale of the subject property was not a transfer between family or related parties; the property was advertised for sale for 42 days in the Multiple Listing Service and involved a Realtor as reported by the appellant in Section IV; and the sale occurred only eight months before the assessment date at issue of January 1, 2011. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value. Finally, the case law indicates that comparable sales data as provided by the board of review should be given less weight when there is a sale of the subject property that qualifies as an arm's length transaction. The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). Moreover, a contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967).

In conclusion, based on the foregoing facts, the Property Tax Appeal Board finds the subject's May 2010 sale price of \$125,000 was reflective of market value. Therefore, the Property Tax Appeal Board finds the subject property had a market value of \$125,000 on January 1, 2011. The subject's assessment reflects an estimated market value of \$162,120, which is substantially higher than its May 2010 sale price. Therefore a reduction is warranted. Since the fair market

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value of the subject has been established, the Board finds that the 2011 three-year median level of assessments for Will County of 33.21% shall apply.

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APPELLANT:	<u>Azfar & Kiran Rasul</u>
DOCKET NUMBER:	<u>12-01757.001-R-1</u>
DATE DECIDED:	<u>April, 2015</u>
COUNTY:	<u>Kane</u>
RESULT:	<u>No Change</u>

The subject property consists of a two-story brick and frame dwelling containing 3,662 square feet of living area that was built in 2005. Features include an unfinished basement, central air conditioning, a fireplace, and a 636 square foot attached garage. The dwelling is situated on 12,673 square feet of land area. The subject property is located in Elgin Township, Kane County, Illinois

The appellants contend overvaluation and assessment inequity as the bases of the appeal. The subject's land assessment was not contested. In support of these arguments, the appellants submitted three comparable sales and three assessment comparables located in close proximity to the subject. The comparables had varying degrees of similarity when compared to the subject. The three comparable sales sold from February to July of 2011 for prices ranging from \$249,000 to \$290,000 or from \$71.57 to \$83.76 per square foot of living area including land. The three assessment equity comparables have improvement assessments ranging from \$68,429 to \$69,108 or from \$18.67 to \$19.47 per square foot of living area. Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject property of \$101,281. The subject's assessment reflects an estimated market value of \$303,691 or \$82.93 per square foot of living area including land when applying Kane County's 2012 three-year average median level of assessment of 33.35% as determined by the Illinois Department of Revenue. The subject property has an improvement assessment of \$77,719 or \$21.22 per square foot of living area.

With respect to the evidence submitted by the appellants, the board of review argued the comparable sales are "Bank REO's" or short sales. The board of review noted the subject property was purchased on May 2011 for \$322,000 or \$87.93 per square foot of living area including land, which is more than the subject's estimated market value as reflected by its assessment. The board of review further argued the appellants used different model dwellings as equity comparables.

In support of the subject's assessment, the board of review submitted four comparable sales and five assessment comparables located in close proximity to the subject. The comparables had varying degrees of similarity when compared to the subject. The four comparable sales sold from April 2010 to August 2011 for prices ranging from \$300,000 to \$330,000 or from \$81.77 to \$104.30 per square foot of living area including land. The five assessment equity comparables have improvement assessments ranging from \$66,772 to \$75,905 or from \$19.75 to \$21.07 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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Conclusion of Law

The appellants 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. Therefore, no reduction in the subject's assessment is warranted.

With respect to the overvaluation argument, the parties submitted seven suggested comparables for the Board's consideration. In addition, the board of review pointed out the subject property sold in April 2011 for \$322,000, just eight months prior to the subject's January 1, 2012 assessment date. The Board finds the best evidence of the subject's market value is the sale of the subject property for \$322,000. The subject's assessment reflects an estimated market value of \$303,691, which is less than the subject's recent sale price. This evidence demonstrates the subject property is under-assessed in relation to its recent sales price. Neither party submitted any evidence that would demonstrate the subject's sale was not an arm's-length transaction. The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, (1970). A contemporaneous sale of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

The Board further finds the comparable sales submitted by both parties further support the subject's estimated market value as reflected by its assessment. The Board gave less weight to comparables #3 and #4 submitted by the board of review. These comparables sold in 2010, which are dated and less reliable indicators of market value as of the subject's January 1, 2012 assessment date. The Board finds the remaining five comparable sales are more similar to the subject in location, design, size, age and features. These comparables sold from February to August of 2011 for prices ranging from \$249,000 to \$325,000 or from \$71.57 to \$99.00 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$303,691 or \$82.93 per square foot of living area including land, which falls within the range established by the most similar comparable sales contained in the record. After considering any necessary adjustments to the comparables for differences to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported by a preponderance of the evidence. Therefore, no reduction in the subject's assessed valuation is justified.

The appellants also contend assessment inequity as another 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

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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 appellants did not meet this burden of proof.

The parties submitted eight assessment comparables for the Board's consideration. Both parties' comparables are similar to the subject property in location, design, exterior construction, age, size and most features. They have improvement assessments ranging from \$68,429 to \$76,517 or from \$18.67 to \$21.07 per square foot of living area. The subject property has an improvement assessment of \$77,719 or \$21.22 per square foot of living area, which falls slightly above the range established by the comparables on a per square foot basis. After considering any necessary adjustments to the comparables for differences to the subject, such as dwelling size and features, the Board finds the subject's improvement assessment is supported. Therefore, no reduction in the subject's improvement assessment is justified.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. 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 appellants 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.

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APPELLANT:	John Rowoldt
DOCKET NUMBER:	12-02202.001-R-1
DATE DECIDED:	February, 2015
COUNTY:	Kendall
RESULT:	No Change

The subject property consists of a two-story brick and frame dwelling with 3,253 square feet of living area. The dwelling was constructed in 2006. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a 781 square foot three-car attached garage. The property has 15,696 square feet of land area. The subject property is located in Bristol Township, Kendall County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted information pertaining to the sale of the subject property and six suggested comparable sales.

The appellant's appeal petition and evidence shows the subject property was purchased in January 2010 for \$185,000. The appellant submitted a settlement statement as corroborating evidence of the subject's sale price.

In further support of the overvaluation claim, the appellant submitted a limited market analysis prepared by ProTaxAppeal that was dated November 5, 2012. The report was not signed nor was the professional credentials of the person(s) who prepared the report disclosed. The analysis included photographs and limited information for six suggested comparable sales. The analysis did not disclose the comparables' proximate location, land size, age, exterior construction, foundation type, or features such as central air conditioning, fireplaces or garages. The dwellings were reported to range in size from 2,761 to 3,364 square feet of living area. The comparables sold from March 2011 to February 2012 for prices ranging from \$130,000 to \$209,000 or from \$47.08 to \$67.42 per square foot of living area including land. The comparables had an average sale price of \$187,250; however, the analysis did not provide a final opinion of value for the subject property.

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$83,825. The subject's assessment reflects an estimated market value of \$252,030 or \$77.48 per square foot of living area including land when applying the 2012 three-year average median level of assessment for Kendall County of 33.26% as determined by the Illinois Department of Revenue.

With respect to the evidence submitted by the appellant, the board of review submitted property record cards for four of the six comparables contained in their market analysis. The property record card for comparable #1 indicates an incorrect dwelling size was used in the market analysis. The board of review further argued comparables #2 through #6 have two-car garages, inferior to the subject's three-car garage.

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In support of the subject's assessment, the board of review submitted four suggested comparable sales located in close proximity within the subject's subdivision. The comparables were similar to the subject in most physical characteristics. They sold from October 2011 to July 2012 for prices ranging from \$223,000 to \$282,500 or from \$65.94 to \$84.86 per square foot of living area including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under rebuttal and in order to cure defects of the original appeal, appellant's counsel completed Section V of the residential appeal petition and submitted property record cards for the comparables contained in the original market analysis. According to appellant's counsel, the grid analysis was prepared "to correct any confusion that may be created due to additional property record cards that were included by the Assessor as appellant's comparables (but were not included in the appeal by the Appellant)." Counsel argued assessor's comparable #3 had a sale in July 2012, which is best used to determine a 2013 assessed value not a 2012 assessed value. Counsel argued comparables #1, #2 and #4 submitted by the board of review are larger dwellings than the subject and comparable #4 has a "lookout" basement.

Conclusion of Law

The appellant contends 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 no reduction in the subject's assessment is warranted.

The Board gave less weight to the subject's 2010 sale price. The Board finds the subject's 2010 sale is dated and not a reliable indicator of market value as of the subject's January 1, 2012 assessment date.

The record contains 10 suggested comparable sales for the Board's consideration. The Board gave less weight to comparable #4 submitted by the appellant due to its smaller dwelling size when compared to the subject. The Board also gave less weight to comparable #4 submitted by the board of review due to its larger dwelling size and look out basement, unlike the subject. The Board finds comparables #1, #2, #3, #5 and #6 submitted by the appellant and comparables #1 through #3 submitted by the board of review are most similar when compared to the subject in location, design, size, age and features. These comparables sold from March 2011 to July 2012 for price ranging from \$184,500 to \$259,000 or from \$59.16 to \$84.86 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$252,030 or \$77.48 per square foot of living area including land, which falls within the range established by the most similar comparable sales contained in this record. After considering any necessary adjustments to the comparable sales for differences to the subject, the Board finds the subject's assessed valuation is supported. Therefore, no reduction in the subject's assessment is warranted.

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APPELLANT:	Charles & Jacqueline Tillman
DOCKET NUMBER:	12-02831.001-R-1
DATE DECIDED:	January, 2015
COUNTY:	Lake
RESULT:	No Change

The subject property consists of a two-story dwelling of frame and masonry exterior construction containing 4,722 square feet of living area. The dwelling was constructed in 2005. Features of the home include a full finished basement, central air conditioning, three fireplaces, an indoor pool with 1,837 square feet of building area and a 929 square foot three-car attached garage. The property has a 26,946 square foot site. The subject property is located in Libertyville Township, Lake County.

The appellants submitted evidence before the Property Tax Appeal Board contending that the subject property was overvalued. In support of this argument, the appellants submitted an appraisal estimating the subject property has a market value of \$775,000 as of September 18, 2012. The appraiser developed the sales comparison and cost approaches to value in arriving at the final value conclusion. The appraiser placed most weight on the sales comparison approach to value in which five suggested comparables sales were analyzed. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$279,263 was disclosed. The subject's assessment reflects a market value of \$853,493 or \$180.75 per square foot of living area including land when applying the 2012 three-year average median level of assessment for Lake County of 32.72% as determined by the Illinois Department of Revenue.

In support of the subject's assessment, the board of review submitted three suggested comparable sales located in close proximity to the subject. The comparables had varying degrees of similarity when compared to the subject. Comparable #1 was also used by the appellants' appraiser. The comparables sold from November 2011 to September 2012 for prices ranging from \$675,000 to \$860,000 or from \$132.15 to \$192.14 per square foot of living area including land.

With respect to the appellants' evidence, the board of review argued the effective date of the appraisal is nine months after the subject's January 1, 2012 assessment date. Appraisal comparable #2 is 37% smaller than the subject dwelling. The board of review also questioned the dwelling size adjustment amount and the lack of the adjustments to the comparables regarding the contributory value of the subject's indoor swimming pool.

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

Under rebuttal, the appellants' counsel argued the board of review submitted a survey of comparable sales, but did not adjust the comparables for differences to the subject in dwelling

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size, location, time of sale, sale condition or any other necessary adjustment. The appellants also argued comparable sales #1 and #3 are significantly smaller than the subject dwelling.¹

Conclusion of Law

The appellants 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 no reduction in the subject's assessment is warranted.

The appellants contend the market value of the subject property is not accurately reflected in its assessed valuation. In support of this claim, the appellants submitted an appraisal estimating the subject property has a market value of \$775,000 as of September 18, 2012. The board of review submitted three suggested comparable sales to support its assessed valuation of the subject property. After reviewing both parties' valuation evidence, the Board gave less weight to the value conclusion of the appraisal submitted by the appellants. The Board finds appraisal comparable #2 is considerably smaller than the subject dwelling. Appraisal comparable #3 is considerably older than the subject and sold in 2009, which is not a reliable indicator of market value as of the subject's January 1, 2012 assessment date. Comparable #5 sold in January 2010, which is less indicative of the subject's market value as of its January 1, 2012 assessment date. Appraisal comparables #4 and #5 are somewhat older in age than the subject. The Board further finds the negative \$30,000 adjustment applied to comparables #1, #3, #4 and #5 for "traffic" to be suspect and not supported by any credible valuation evidence within the appraisal report. Finally, the Board finds the adjustment or lack thereof to the comparables for the subject's indoor swimming pool is not supported by any objective evidence.

The Board finds the most similar comparable sales contained in this record are comparables #1 and #4 contained within the appellants' appraisal and the three comparables submitted by the board of review. Appraisal comparable #1 and board of review comparable #1 are the same property. These comparables sold from June 2011 to September 2012 for prices ranging from \$675,000 to \$860,000 or from \$132.15 to \$192.14 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$853,493 or \$180.75 per square foot of living area including land, which is supported by the most similar comparable sales contained in this record. Therefore, no reduction in the subject's assessment is warranted.

¹ The Board finds the appellants' appraiser also used board of review comparable #1 and board of review comparable #3 is not significantly smaller than the subject dwelling.

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APPELLANT:	<u>Joan Tripicchio</u>
DOCKET NUMBER:	<u>13-01559.001-R-1</u>
DATE DECIDED:	<u>July, 2015</u>
COUNTY:	<u>DeKalb</u>
RESULT:	<u>Reduction</u>

Dismissal Motion

Along with its "Board of Review - Notes on Appeal," the board of review made a motion to dismiss this appeal on the grounds that the owner of the subject property is Greenfeather Houses LLC, not the named appellant, Joan Tripicchio. In further support, the board of review submitted a copy of the County Parcel Information Report where in the owner's name and address is the same address as that identified for "alternate" name Tripp & Associates Inc. The board of review also contends there is nothing in the record to establish that the named appellant has a beneficial interest. The board of review concludes "this should have been dismissed by the Board of Review."

In response, the appellant through legal counsel asserted that Joan Tripicchio is a manager of Greenfeather LLC and as such has standing to file an assessment appeal concerning the subject parcel. Attached was a printout from the Illinois Secretary of State's Office noting Greenfeather LLC's agent is Tripp & Associates, Inc. and managers recorded with that office include the named appellant.

The procedural rules of the Property Tax Appeal Board specify with regard to objections to jurisdiction:

If the board of review objects to the Board's jurisdiction, it must submit a written request for dismissal of the petition **prior to** the submission of the Board of Review Notes on Appeal and accompanying documentation. . . . [Emphasis added.] (86 Ill.Admin.Code §1910.40(b))

If the board of review objects to the Board's jurisdiction and the Property Tax Appeal Board subsequently determines that it has jurisdiction over the parties and the subject matter of the appeal, the board of review shall submit its Board of Review Notes on Appeal, the subject's property record card and all written and documentary evidence within 30 days after the Board's ruling determining jurisdiction. (86 Ill.Admin.Code §1910.40(c)).

In this matter, the board of review filed its "Notes on Appeal" and responsive evidence along with the dismissal motion. Under the procedural rules, the Board finds that the DeKalb County Board of Review arguably waived its ability to seek dismissal of this matter by simultaneously filing its evidence and "Notes on Appeal" with the dismissal request.

However, turning to the merits of the dismissal request, the Property Tax Appeal Board finds that a Notice of Final Decision was issued by the DeKalb County Board of Review on the

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subject parcel dated February 7, 2014. The owner name was listed on that document as Greenfeather Houses, LLC. There is no indication from the board of review as to who the named appellant was in the appeal which was filed before the DeKalb County Board of Review.

The appellant responded to the dismissal motion establishing the relationship of the named appellant to the owner of record of the subject property. Based on this evidence, the Board finds no merit in the dismissal request made by the board of review.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DeKalb County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 one-story dwelling of frame construction with 1,660 square feet of living area. The dwelling was constructed in 2003. Features of the home include a full basement with finished area, central air conditioning and an attached two-car garage. The property has a 10,080 square foot site and is located in DeKalb, DeKalb Township, DeKalb County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on May 15, 2012 for a price of \$119,000. In further support, the appellant submitted a copy of the Settlement Statement reiterating the sale date and price and also depicting the payment of brokers' fees. Also submitted was a copy of the Multiple Listing Service (MLS) data sheet depicting an original asking price of \$159,900 and an original listing date of February 23, 2011. The Listing & Property History Report depicts six price changes to a final asking price of \$119,900. The MLS data sheet further noted the property was on the market for 328 days prior to its sale for \$119,000 as a short sale and sold "as-is."

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$42,000. The subject's assessment reflects a market value of \$126,544 or \$76.23 per square foot of living area, land included, when using the 2013 three year average median level of assessment for DeKalb County of 33.19% as determined by the Illinois Department of Revenue.

As to the sale of the subject, the board of review contends that this was a short sale as shown in the listing.

In support of its contention of the correct assessment and to demonstrate that the subject property "sold below market value," the board of review submitted information on three comparable sales.

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The sales occurred in December 2012 for prices ranging from \$115,000 to \$143,000 or from \$74.00 to \$100.14 per square foot of living area, including land. The board of review further contended that these properties sold for an average of \$82.90 per square foot of living area, including land.

Based on the foregoing evidence, and in the absence of a dismissal, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant noted the board of review did not provide any evidence disputing the arm's length nature of the sale transaction and argued that the sale of the subject property reflects market value given the arm's length sale.

Conclusion of Law

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

The Property Tax Appeal Board takes judicial notice of Public Act 96-1083 which amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "**short sale**" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete. [Emphasis added.]

Section 16-183 provides:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

The Board finds the effective date of these statutes is applicable to the assessment date at issue, January 1, 2013 and moreover, the Board finds these statutory provisions instructive as to the consideration of the subject's sale transaction, even though it was a "short sale."

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On this record, the Board finds the best evidence of market value to be the purchase of the subject property in May, 2012 for a price of \$119,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 328 days. In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the sale date and price. The Board finds the purchase price of \$119,000 is below the market value reflected by the assessment of \$126,544.

Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). The Board further finds the board of review did not present any evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value. In light of the foregoing case law, the Board has given little consideration to the comparable sales presented by the board of review.

Based on this record the Board finds the subject property is overvalued and a reduction commensurate with the appellant's request is warranted.

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APPELLANT:	<u>James Yeh</u>
DOCKET NUMBER:	<u>11-05883.001-R-3</u>
DATE DECIDED:	<u>March, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>Reduction</u>

The subject property is improved with a part two-story and part one-story owner occupied single family dwelling of masonry/stone construction with 10,564 square feet of living area. The dwelling was constructed in 2004. Features of the property include a full finished basement, central air conditioning, four fireplaces, an attached three-car garage, a detached one-car garage and an in-ground swimming pool. The property has approximately 54,608 square feet of land area and is located in Hinsdale, Downers Grove Township, DuPage County.

Appearing before the Property Tax Appeal Board on behalf of the appellant was attorney Patty Fortas arguing overvaluation as the basis of the appeal.¹ In support of this argument the appellant had submitted an appraisal estimating the subject property had a market value of \$4,800,000 as of January 1, 2011 and January 1, 2012. The appraisal was prepared by Michele Mayers, a Certified Residential Real Estate Appraiser, of Real Valuation Group, LLC.

Mayers was called as a witness on behalf of the appellant and identified Appellant's Exhibit #1 as an appraisal of the subject property with a valuation date of January 1, 2011. The appraiser also identified Appellant's Exhibit #2 as an appraisal she prepared of the subject property with a valuation date of January 1, 2012.

Mayers described the subject's neighborhood as being a suburban area comprised with higher-end single-family homes. She inspected the subject property on October 29, 2012. The witness testified the subject dwelling had thirteen rooms above grade, six bedrooms above grade, and six full and two half bathrooms above grade. The basement was finished with a recreation room, a media room, one bedroom and one bathroom. The dwelling also had a lap pool in the basement but it was not functioning; to her knowledge the plumbing was not set up for the lap pool. She also testified the subject property had an in-ground pool and a slate patio in the back yard. The appraiser testified she counted four fireplaces and explained the subject has a three-car attached garage and a one-car detached garage. The witness described the subject property as being in good condition.

In estimating the market value of the subject property as of January 1, 2011 and as of January 1, 2012, the appraiser developed the sales comparison approach to value and the cost approach to value.

¹ Ms. Fortsas requested the Property Tax Appeal Board take notice of the decisions issued for the 2009 and 2010 tax years involving the subject property under Docket Numbers 09-03166.001-R-3 and 10-04992.001-R-3. For the 2009 tax year the Property Tax Appeal Board issued a decision following a hearing reducing the subject's assessment to \$1,995,600. For the 2010 tax year the Property Tax Appeal Board issued a decision establishing a total assessment of the subject property of \$1,880,000 based on a stipulation of the parties. (See 86 Ill.Admin.Code 1910.90(i)).

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Under the cost approach to value the appraiser first estimated the value of the subject's land to be \$1,500,000 or \$27.47 per square foot of land area. She testified that land sales from 2008 to 2010 that ranged from \$5.27 to \$99.81 per square foot of land area. The appraiser estimated the cost new of the improvements to be \$3,685,400. Depreciation was estimated to be \$393,109 using an age of 8 years and an economic life of 75 years. The appraiser also estimated the "as-is" value of the site improvements to be \$25,000. Deducting depreciation, adding the site improvements and adding the land value resulted in an estimated value under the cost approach of \$4,817,300. Mayers testified she used the same methodology and arrived at the same value in the 2012 appraisal.

In developing the sales comparison approach the appraiser used four comparable sales located in Hinsdale that were improved with three-story dwellings of stone or stone and stucco exterior construction that ranged in size from 5,910 to 8,210 square feet of living area. The dwellings ranged in age from three to eight years old. Each comparable had a finished basement, central air conditioning, five to nine fireplaces and a three-car garage. The comparables had sites ranging in size from 17,000 to 31,663 square feet of land area. The sales occurred from March 2008 to December 2010 for prices ranging from \$3,800,000 to \$4,650,000 or from \$544.88 to \$702.20 per square foot of living area, including land. Mayers made adjustments to the sales to account for differences from the subject property for land area and features. The appraisers land adjustments ranged from \$20,000 to \$40,000 or from approximately \$.87 to \$1.06 per square foot of land area. Other adjustments were made for such items as room count, number of bathrooms, gross living area, number of garage stalls, patio area, number of fireplaces and for the in-ground swimming pool. The appraiser arrived at adjusted prices ranging from \$4,318,800 to \$4,969,301. The appraiser testified she placed a little more weight on comparable sale #2 because it was a little closer to the subject dwelling in size. Based on these sales and analysis the appraiser estimated the subject property had an indicated value under the sales comparison approach of \$4,800,000.

The appraiser testified she did not find any comparable sales the size of the subject dwelling. She further testified the sales she selected were in fairly close proximity to the subject property. The witness further explained the information for the comparables was pulled from the Multiple Listing Service (MLS) and she confirmed the lot square footage and the building square footage through the assessor's website or property record card. With respect to the land adjustment the witness indicated it was based on the contributory value of the land. Mayers testified the adjustment for differences in square footage of living area was based on a contributory value of \$125.00 per square foot. She testified the adjustment for a full bath was \$10,000 and the adjustment for a half bathroom was \$5,000 was based on her experience in the market and the contributory value of bathrooms. The appraiser indicated that garage area was adjusted at \$15,000 per space and the fireplace adjustment of \$10,000 per fireplace was based on the market and paired sales analysis. The appraiser indicated she made a \$50,000 adjustment for the lack of an in-ground swimming pool explaining there is a small contribution for an in-ground pool in the Midwest due to the short swimming season and the cost to maintain the pool. No time adjustments were made for the sales due to the limited sales data available. The witness testified she drove by the comparable sales but had not been inside the homes.

The witness explained these were the same comparable sales used in the 2012 appraisal and the adjustments were the same in the 2012 appraisal as in the 2011 report. She also testified that her

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opinion of value under the sales comparison approach of \$4,800,000 was the same as in the 2012 appraisal.

In reconciling the two approaches to value the appraiser gave most credence to the sales comparison approach. Her reconciled value was \$4,800,000 as of January 1, 2011 and January 1, 2012.

Under cross-examination the appraiser testified that she made no adjustments for the subject's slate roof and thermopane windows. She also testified that she did not list the land sales in the cost approach section. The witness also testified under the cost approach the dwelling was valued at \$250 per square foot and the basement at \$150 per square foot based on the Marshall & Swift cost manual. She also explained that the garage area was calculated at \$50 per square foot under the cost approach. She also testified that the \$125 per square foot adjustment to the comparable sales for different living area square footage was based on the contributory value of the space, which differed from the cost new of \$250.

The appraiser also agreed that the 2011 and 2012 appraisal reports were practically identical. The reports were signed the same day by Mayers and were done at the same time.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$2,119,860. The subject's assessment reflects a market value of \$6,394,751 or \$605.33 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue. The subject property had a land assessment of \$460,010 and an improvement assessment of \$1,659,850.

Appearing before the Property Tax Appeal Board on behalf of the board of review were Charles Van Slyke, board member, and Joni Gaddis, Chief Deputy Assessor of Downers Grove Township. Gaddis was called as a witness and explained that due to discrepancies in the subject's description found during a field inspection on September 25, 2013, she requested the 2011 improvement assessment be adjusted to \$1,581,380 resulting in a total revised assessment for 2011 of \$2,041,390.

Gaddis also testified there were errors in the narratives she had prepared in connection with the appeals. She noted that paragraph 3 of the 2011 narrative incorrectly describes the subject dwelling as having 7,082 square feet when it actually has 10,564 square feet of living area.² The witness further explained the narratives incorrectly stated the appraisal indicated the subject property has a lot value of \$1,500,000 or \$2.71 per square when that should be \$27.16 per square foot of land area. Gaddis testified her records indicate the subject's land square footage is 55,227 as compared to the appellant's appraisal which has the land square foot of 54,608.

In the narratives prepared by Gaddis she described the comparables contained in the appellant's appraisal. The assessor agreed with the size of each dwelling as reported by the appraiser but disagreed with some of the features such as number of bathrooms and fireplaces.

² Gaddis correctly described the subject's living area in the 2012 narrative.

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As support for the 2011 assessment Gaddis identified six comparable sales. Sales #1 through #4 were improved sales while sales #5 and #6 were submitted as land sales. Comparables #1 through #4 were improved with part 2-story, part 3-story and part 1-story dwellings that ranged in size from 7,111 to 8,210 square feet of living area. The dwellings were constructed from 2003 to 2011 and each property was located in Hinsdale. Each comparable had a full or partial basement that was finished, central air conditioning, five to ten fireplaces and garage space ranging from 842 to 1,268 square feet of building area. The comparables had sites ranging in size from 23,817 to 30,500 square feet of land area. The sales occurred from February 2009 to February 2011 for prices ranging from \$4,750,000 to \$5,350,000 or from \$566.38 to \$708.52 per square foot of living area, including land. Gaddis testified that comparable #1 had an elevator but no pool. The deputy assessor also testified that sale #2 was the same property as appellant's appraiser's sale #2. Gaddis was also of the opinion sale #4 was a lesser quality home than the subject property and not a good representation of the subject property. She noted that the property record cards for these properties disclosed they have significantly smaller patios than the subject property and none have a swimming pool.

Sales #5 was a 30,170 square foot vacant site that sold in March 2010 for a price of \$1,820,000 or \$60.32 per square foot of land area. Sale #6 was described as being a 27,219 square foot site improved at the time of sale in January 2011 but the house was razed in November 2011. The property sold for a price of \$2,100,000 or \$77.15 per square foot of land area.

Gaddis testified that slate patios are assessed differently than concrete patios because slate costs more. With respect to a slate roof versus composition shingles, Gaddis explained that feature is considered in the quality construction class.

Under cross-examination Gaddis testified the evidence sales used for 2012 were the same as in 2011 with the exception of improved sale #4, which was omitted in the 2012 submission.

Gaddis testified she is not a licensed appraiser and did not make any adjustments to the sales she used. She also explained the property record cards contain a document number associated with each sale recorded with the DuPage County Recorder of Deeds. The witness also agreed that the quality grade assigned to a property is subjective.

Gaddis agreed that the assessment for the subject property in 2010 was \$2,190,550 and the final 2011 assessment was \$2,119,860, which suggests a decline in property values. She also agreed the 2012 assessment was \$1,990,550, lower than in 2011, indicating a decline in value. Gaddis also agreed that a certificate of error was issued in 2012 reducing the assessed value to \$1,916,870.

Gaddis further agreed that she found no sales around 10,500 square feet and testified the subject dwelling is the fourth largest home in the neighborhood. She also agreed sale #2 was most comparable to the subject with the exception of the lack of amenities such as a pool, slate patio, additional garage and size. She also agreed her sale #1 was new at the time of sale.

Gaddis further agreed that for the 2012 appeal, comparable sale #5 was the same land sale as sale #6 in the 2011 appeal and the unit price was \$77.15 per square foot of land area.

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Gaddis also agreed 2011 and 2012 were within the same general assessment period, the subject property was owner occupied and a township equalization factor of .9390 was applied in 2012.³

Conclusion of Law

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

The Board finds the best evidence of market value to be the sales comparison approach to value contained in the appellant's appraisal but for the land adjustment made by the appraiser to account for the difference between the subject and the comparables in land size. The appraisal indicated the subject property had a land value of \$1,500,000 or approximately \$27.47 per square foot of land area. The appraiser testified this estimated land value was based on land sales from 2008 to 2010 that ranged from \$5.27 to \$99.81 per square foot of land area. Unfortunately, the land sales used by the appraiser were not included in the report. Furthermore, the board of review evidence included two land sales that had unit prices of \$60.32 and \$77.15 per square foot of land area. In the sales comparison approach to value the appraiser adjusted the comparables for differences in land size from \$.87 to \$1.06 per square foot of land area to account for the contributory value of the subject's additional land. The Board finds this aspect of the appellant's appraisal is not particularly credible considering the value assigned to the subject's land and the land sales provided by the board of review. The Board finds a more appropriate adjustment to the comparable sales in the appraisal to account for differences in land size to be \$27.00 per square foot of land area, which is similar to the unit land value estimated by the appraiser for the subject site but below the unit prices of the two land sales provided by the board of review. Using this adjustment the comparables sales contained in the appellant's appraisal would have the following adjusted prices: comparable sale #1, \$5,200,800; comparable sale #2, \$5,568,801; comparable sale #3, \$5,771,801; and comparable sale #4, \$5,740,902. Using this analysis and giving slightly more weight to appraisal sale #2, which was also submitted by the board of review, the Board finds the subject property had a market value of \$5,600,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

³ At the end of the hearing the Property Tax Appeal Board (PTAB) accepted Appellant's Exhibit A, a copy of the PTAB's decision issued in Docket No. 09-03166.001-R-3; Appellant's Exhibit B, a copy of the PTAB's decision issued in Docket No. 10-04992.001-R-3; and Appellant's Exhibit C, property information from the DuPage County website showing the subject's assessment for 2009 through 2013.

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APPELLANT:	<u>York Tower Condominium Association</u>
DOCKET NUMBER:	<u>11-06031.001-R-3 thru 11-06031.031-R-3</u>
DATE DECIDED:	<u>September, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>Reduction & No Change</u>

The subject property is improved with a 372-unit mixed use residential and commercial condominium complex. The units are approximately 36 years old. Each residential unit contains 800 square feet of living area. The commercial units on appeal range in size from 80 to 542 square feet of building area. The property has a 692,937 square foot site and is located in Bensenville, Addison Township, DuPage County.

The appellant's appeal is based on overvaluation concerning 22 residential units and 9 commercial units. In support of this argument the appellant's counsel submitted a brief and evidence.

The appellant submitted 8 sales which occurred between September 2010 and October 2011, each of which was a foreclosure or short sale. These 8 residential units sold for prices ranging from \$26,200 to \$38,500 or from \$32.75 to \$48.13 per square foot of living area, including land. These sales present an average sale price of \$30,694 or \$38.37 per square foot of living area, including land.

With respect to the commercial units, counsel for the appellant argued that a 2010 stipulation between the appellant and the board of review, along with reductions by the assessor for the 2011 and 2012 tax years, amounted to an admission that the assessments for the commercial units were incorrect. The appellant submitted no sales to support the overvaluation argument regarding the commercial units.

Based on this evidence, the appellant requested a reduction in the assessment of each of the residential units to \$10,232 which would reflect a market value of \$30,700 or \$38.38 per square foot of living area and that the commercial units reflect a market value ranging from \$3,279 to \$22,223 or \$41.00 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the total assessment of \$741,790 was disclosed for the 31 parcels on appeal. These 31 parcels within the condominium complex reflect a market value of \$2,237,677, including land, when applying the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

In support of the assessment, the board of review presented a spreadsheet which included 22 sales. The 22 sales in the subject condominium complex were of 800 square foot units that sold between July 2007 and August 2011 for prices ranging from \$26,200 to \$125,000 or from \$32.75 to \$156.25 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessments.

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In written rebuttal, the appellant contends that the board of review's raw sales data lacked any substantive documentary evidence to confirm that the sales evidence was "correct or relevant." Moreover, the appellant contended that sales that occurred in 2007 and 2008 should be ignored as being too distant in time to being indicative of the property's market value in 2011.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant contends the market values of the subject 31 parcels are not accurately reflected in their assessed valuations. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); 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 met this burden of proof with regard to the residential units and a reduction in the residential unit's assessments are warranted, but the appellant did not meet this burden of proof with regard to the commercial units and no change in the assessments of the commercial units are warranted in this record.

As to the residential units, the Board finds the parties submitted a total of 23 sales of 800 square foot units that occurred between July 2007 and October 2011. Given that the assessment date at issue is January 1, 2011, the Board has given most weight to the sales that occurred most proximate in time to the assessment date. Thus, the Board has given most weight to the sales that occurred from October 2010 through October 2011 which represents eight sales that bracket the assessment date. The sale prices range from \$24,000 to \$38,500 or from \$30.00 to \$48.13 per square foot of living area, including land.

Each residential unit's 2011 assessment of \$30,000 reflects a market value of approximately \$90,498 or \$113.12 per square foot of living area, including land, which is above the range established by the comparable sales that occurred most proximate to the assessment date in this record. Therefore the Board finds the record demonstrates by a preponderance of the evidence that the residential units were overvalued and a reduction in the assessment of the residential units on appeal is justified.

As to the commercial units, the appellant presented no sales of commercial units to establish that the subject commercial parcels were overvalued and the Board places little weight on the appellant's argument that the 2010 stipulation and/or subsequent reductions by the local assessor amount to an admission that the 2011 assessments were incorrect. Based on the submission of foreclosure and short sales of residential units within the condominium complex, it appears the market conditions for the condominium complex were in a state of flux and would necessarily affect the market values of the commercial units as well. The Board finds any reduction in the year subsequent to the tax year in question may have been based on declining 2012 market conditions within the complex and were justified. Without further support or other documentary evidence, the Board will not surmise the reductions evidence the fact that the 2011 tax year assessments were incorrect. The appellant presented no substantive market value evidence to support the argument that the commercial units were incorrectly assessed. Therefore, the Board

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finds the appellant failed to meet the burden of establishing that the commercial units were overvalued.

In summary, the Board finds that the assessments of the residential units should be reduced based upon a preponderance of the evidence of recent sales of similar units. However, the appellant has failed to establish that a change in the assessment of the commercial units would be warranted.

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PROPERTY TAX APPEAL BOARD
SYNOPSIS OF REPRESENTATIVE CASES
2015 FARM DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
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APPELLANT:	Virginia Barnard
DOCKET NUMBER:	13-04319.001-F-1
DATE DECIDED:	November 2015
COUNTY:	Fulton
RESULT:	No Change

The appellant timely filed the appeal from a decision of the Fulton County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 6,720 square foot four-side closed pole barn built in 2012. The pole building has an 18 foot eave height. Features include a concrete floor and one-half of the building is insulated. The property is located in Canton Township, Fulton County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on the cost to construct a pole building. The appellant indicated the building was constructed in 2012 for a cost of \$61,062.74. The building was completed as of July 2012. The appellant indicated under Section VII – Recent Construction Information - that the appellant or a member of the appellant's family acted as the general contractor. The appellant also indicated that there was non-compensated labor preformed. The appellant then stated that the estimated value for the general contracting fee and the labor was \$0.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject property of \$201,130. The pole barn under appeal is assessed at \$32,900 which reflects a market value of \$98,710 using the statutory level of assessments of 33.33%.

In support of its contention of the correct assessment the board of review submitted the property record card for the subject property containing the cost approach for the pole barn which included all amenities and labor.

In written rebuttal, the appellant stated that the eave height is 18 feet and only half of the building, 60 feet by 56 feet has insulation.

Conclusion of Law

The appellant contends 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 is not warranted.

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The Board gave less weight to the appellant's construction cost of the pole building. The appellant failed to include the value for a general contractor's fee and labor costs associated with the construction of the pole building. The Board finds the best evidence of value to be the cost approach to value presented by the board of review. This cost approach includes the market cost to construct the pole building with all labor. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	<u>Alvin Boyd</u>
DOCKET NUMBER:	<u>10-00455.001-F-1</u>
DATE DECIDED:	<u>March, 2015</u>
COUNTY:	<u>Macon</u>
RESULT:	<u>No Change</u>

The appellant timely filed the appeal from a decision of the Macon County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 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 one-story cabin of frame construction with 432 square feet of living area. The cabin was constructed in 2002. Features of the cabin include a slab foundation, a wood deck and 2 covered porches. The cabin is situated adjacent to a pond. The subject parcel has a total of 74 acres of land area, of which .22 of an acre is designated as homesite. The subject property is located in Whitmore Township, Macon County.

The appellant contends assessment inequity, overvaluation based on recent construction costs and incorrect classification of land, as the bases of the appeal. In support of the assessment inequity argument, the appellant submitted information on three equity comparables. In support of the overvaluation based on recent construction costs argument, the appellant submitted a reconstructed building cost list. In support of the incorrect classification of land, the appellant submitted aerial photographs, a parcel breakdown, copies of Forest Stewardship Plans, copies of Conservation Reserve Program (henceforth CRP) Contracts and a copy of a Certification of Vegetative Filter Strip.

Based on this evidence, the appellant requested a farmland assessment of \$1,817, a farm building assessment of \$1,614, a non-farmland assessment of \$0 and a non-farm building assessment of \$0.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$13,652. The subject property has a farmland assessment of \$2,946. The subject property's .22 of an acre homesite has a non-farmland assessment of \$5,706. The subject property has an improvement assessment of \$5,000 or \$11.57 per square foot of living area. In support of its contention of the correct assessment the board of review submitted information on three homesite comparables and two improvement comparables.

Under rebuttal, the appellant argued that all of the subject's land should be assessed at one-sixth of the land's productivity index (PI), that a certificate of occupancy was not issued for the subject's improvement, that the board of review's homesite comparables are occupied year around, that the board of review's improvement comparable #2 is superior to the subject, that the board of review's improvement comparable #1 is assessed lower than the subject and that the

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board of review indicated that the appellant's comparable #2 was to be reevaluated from its 2009 value, but as of 2012, it has the same assessment.

Conclusion of Law

The taxpayer 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted on grounds of lack of uniformity.

As to the appellant's recent construction cost argument, the Board finds the appellant failed to supply any recent construction cost evidence. The subject's structure was purportedly built in 2002 by family members using some used materials. The appellant claims the building cost estimates were reconstructed using building costs for a garage, even though a garage door was never installed. The appellant further claims the structure does not have electricity, water, cook stove, refrigerator or air conditioner. The subject does have a propane heater that must be lit each time heat is desired. The structure is used "for pond maintains tool storage and **for personal protection from weather.**" The Board finds, based on this evidence and the photographic evidence, that the structure does not have a farm use and should be taxed as non-farm real estate.

Section 1-30 of the Property Tax Code states in pertinent part:

Sec. 1-130. Property; real property; real estate; land; tract; lot.
(a) The land itself, with all things contained therein, and also **all buildings**, structures and improvements, and other permanent fixtures thereon, including all oil, gas, coal, and other minerals in the land.... (35 ILCS 200/1-130)

As to the appellant's argument regarding the subject's land classification, the Board finds the board of review assessed the subject's land properly in accordance with the Illinois Department of Revenue's Publication 122-Instructions for Farmland Assessments and Section 10-110 of the Property Tax Code. (35 ILCS 200/10-110 through 10-169) The appellant claims the board of review has incorrectly assessed 6.23 acres of the subject parcel as cropland, but failed to delineate which portions should not have a cropland assessment. The Illinois Department of Revenue's Publication 122-Instructions for Farmland Assessments regarding land in a CRP states that: If grass is planted, this land will be classified as cropland (according to the Bureau of Census' cropland definition). If trees are planted, then the cropland assessment should apply until tree maturity prevents the land from being cropped again without first having to undergo significant improvements (e.g., clearing). Furthermore, the appellant's list of CRP contracts totals 92.1 acres, which is inconsistent with the subject's total of 74 acres.

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Regarding the subject's land assessment, the Board finds the best evidence of assessment equity to be appellant's comparable #3 and board of review comparables #1 and #2. The Board gave less weight to the appellant's land comparables #1 and #2 due to their significantly larger lot sizes when compared to the subject. The Board also gave less weight to the board of review's land comparable #3 due to the lack of information regarding the size of the lot. The most similar land comparables had assessments that ranged from \$.05 to \$.14 per square foot of land area. The subject's land assessment of \$.06 per square foot of land area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's land was inequitably assessed and a reduction in the subject's assessment is not justified.

Regarding the subject's improvement assessment, the Board finds the best evidence of assessment equity to be appellant's comparables #2 and #3 and the board of review's comparables. The Board gave less weight to the appellant's comparable #1 due to its considerably larger size when compared to the subject. The most similar improvement comparables had assessments that ranged from \$.31 to \$14.60 per square foot of living area. The subject's improvement assessment of \$11.57 per square foot of living area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

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APPELLANT:	Larry & Linda Burns
DOCKET NUMBER:	12-01239.001-R-1
DATE DECIDED:	April, 2015
COUNTY:	DeKalb
RESULT:	No Change

(Please note, the Property Tax Appeal Board recognizes this case was filed as a residential appeal, however the evidence and context of this decision primarily relates to farmland issues.)

The appellants timely filed the appeal from a decision of the DeKalb County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2012 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 of 7.59-acres consists of both farmland and a homesite which is improved with a single-family residence. The parcel consists of 5.87-acres of farmland and a 1.72-acre homesite. For the homesite, the assessing officials report that .28 of an acre located in a floodplain was given no value resulting in a homesite size of 1.44-acres that was assessed. The property is located in Hinckley, Squaw Grove Township, DeKalb County.

The appellants contend assessment inequity as the basis of the appeal concerning the subject's 1.44-acre or 62,726 square foot homesite assessment of \$15,000 or \$10,417 per acre of homesite land area or \$0.24 per square foot of homesite land area.¹ The appellants did not challenge either the farmland or the improvement assessment for the residence of the subject property. In support of the homesite inequity argument, the appellants submitted limited information on three land equity comparables located within 1-mile of the subject property.

In further support of the appeal, the appellants submitted a letter outlining the factual contention that the subject parcel floods "most years, once or twice a year." To support the contention, the appellants submitted a contour map and asserted that the driveway to the dwelling is located in the floodplain. The appellants also submitted photographs depicting flood waters, including flooding around vehicles along with a listing of losses suffered due to flooding between 1991 and 1997. Appellants asserted that Realtors as recently as 2013 have advised they will not list the subject property for sale due to the flooding. In further support of this contention, the appellants provided a letter from a Realtor dated December 27, 2002 with an opinion that the subject property had a "0" value.

Based on this evidence and argument, the appellants requested a homesite assessment of \$2,000 or \$0.03 per square foot of land area.

¹ The appellants also marked Recent Sale and Comparable Sales in Section 2d of the Residential Appeal petition. The appellants in Section IV - Recent Sale Data of the petition reported the subject vacant land was purchased in April 1991 for \$30,000. The appellants provided no information concerning recent sales of comparable properties.

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The board of review submitted its "Board of Review Notes on Appeal" disclosing the total homesite and building assessment for the subject of \$61,653. As depicted in the Final Decision issued by the board of review, the subject parcel also has a farmland assessment of \$2,616. The subject property has a homesite assessment of \$15,000 or \$0.24 per square foot of land area.

As to the appellants' evidence, the board of review reported that comparable #1 consists of a 2-acre homesite with a land assessment of \$24,310 or \$12,155 per acre or \$0.27 per square foot of homesite land area; comparable #2 is all farmland and thus not assessed at market value like a homesite; and comparable #3 consists of 1.10-acres of residential land with an assessment of \$15,558 or \$14,144 per acre or \$0.33 per square foot of land area.

In support of its contention of the correct assessment the board of review submitted information on three equity comparables. Based on this evidence and argument, the board of review requested confirmation of the subject's homesite assessment.

Conclusion of Law

To the extent that the appellants made a market value argument, the Board finds the 1991 purchase price of the subject parcel is too remote in time to the assessment date at issue of January 1, 2012 to be indicative of the subject's land value as of the assessment date at issue. Moreover, while the appellants marked "comparable sales" as a basis of the appeal petition, the appellants failed to provide at least three recent sales of vacant homesite land to support the challenge to the subject's homesite assessment.

The taxpayers contend 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 appellants did not meet this burden of proof and a reduction in the subject's homesite assessment is not warranted.

The parties submitted a total of six equity comparables to support their respective positions before the Property Tax Appeal Board. The Board has given no weight to the appellants' comparable #2 as the land was assessed as farmland and thus receives a farmland assessment value rather than a market value assessment which is applied to homesite land like the subject parcel that is on appeal.

The Board finds the best evidence of assessment equity to be appellants' comparables #1 and #2 along with the board of review comparables. These five homesites range in size from 1.10 to 2.75-acres of land area with homesite land assessments that ranged from \$0.23 to \$0.33 per square foot of land area. The subject's homesite assessment of \$0.24 per square foot of land area falls within the range established by the best homesite land comparables in this record.

Given the appellants' contention that the subject has a reduced value due to its location in a floodplain, the Board finds that the appellants' are arguing overvaluation of the subject property

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due to a condition issue. The appellants are advised that the best potential evidence of such possible diminution of value would most likely be an appraisal of the property where a licensed appraiser gives due consideration to location in the floodplain.

Based on this record of lack of assessment uniformity, the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's homesite was inequitably assessed and a reduction in the subject's assessment is not justified.

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APPELLANT:	<u>James Larson</u>
DOCKET NUMBER:	<u>11-22484.001-F-1 thru 11-22484.002-F-1</u>
DATE DECIDED:	<u>April, 2015</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>A Reduction</u>

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of two parcels of land that are a portion of a farm, which contains eight total parcels of land. The remaining six parcels are not at issue in this appeal. Parcel #1 (PIN ending in -021) consists of a one story dwelling of frame construction with 1,336 square feet of living area. The appellant alleges that the improvement on Parcel #1 is 67 years old, while the board of review asserts it is 45 years old. Parcel #1 has a 192,709 square foot site. 149,149 square feet of land on Parcel #1 is classified as class 2-39 land under the Cook County Real Property Assessment Classification Ordinance (the "Classification Ordinance"), while the remaining 43,560 square feet of land is classified as class 2-00 land under the Classification Ordinance. The improvement on Parcel #1 is classified as a class 2-03 improvement under the Classification Ordinance.

Parcel #2 (PIN ending in -005) has two improvements, of which only one is at issue in this appeal. The improvement at issue consists of a one story dwelling of frame construction with a 1,342 square foot footprint. The dwelling is 62 years old. Parcel #2 has an 80,325 square foot site which is classified as class 2-39 land under the Classification Ordinance. The improvement at issue on Parcel #2 is classified as a class 2-03 improvement under the Classification Ordinance. The subject is located in Tinley Park, Bremen Township, Cook County.

In regards to Parcel #1, the appellant contends assessment inequity as the basis of the appeal. The appellant's uniformity argument contests both the land and improvement assessments for Parcel #1. However, at hearing, the parties orally stipulated as to Parcel #1's correct land assessment. Therefore, only the appellant's uniformity argument in relation to the improvement on Parcel #1 will be discussed. In support of the improvement uniformity argument, the appellant submitted eight equity comparables.

In regards to Parcel #2, the appellant contends that the improvement at issue should be partially classified as a class 2-03 improvement, and partially as a class 2-24 improvement. The appellant alleges that approximately 985 square feet of the improvement at issue is used for residential purposes, while the remaining portion of approximately 357 square feet is used to house rabbits in support of the subject's farm. The improvement also has an attached garage, which the appellant alleges should be part of the improvement's class 2-24 designation.

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The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$41,725. The improvement on Parcel #1 has an improvement assessment of \$20,708, or \$15.50 per square foot of living area. In support of its contention of the correct assessment, the board of review submitted information on four equity comparables for the improvement on Parcel #1, and four equity comparables for the improvement at issue on Parcel #2.

At hearing, the appellant reaffirmed the evidence previously submitted. In support of the classification argument for the improvement at issue on Parcel #2, the appellant offered a handwritten drawing of the improvement's dimensions. The appellant testified that he measured the outside dimensions of the improvement with a tape measure, and documented the measurements on the drawing. The Board accepted this drawing into evidence, without objection from the board of review representative, and marked it as Appellant's Hearing Exhibit "A." The appellant testified that in 2011, the garage was used to park automobiles, but was currently used to store farming equipment.

During the board of review's case-in-chief, the parties agreed that the correct assessment for the land on Parcel #1 is \$995, and the Board accepted this assessment. 86 Ill.Admin.Code §1910.55(a).

The board of review representative contested that the classification and square footage of the improvement at issue on Parcel #2 was correct, and that the appellant's drawing was insufficient to prove that the classification and square footage were incorrect. The board of review representative waived an opportunity by the Board to gather its own evidence to contradict the drawing supplied by the appellant. The board of review rested on the evidence previously submitted in regards to the improvement assessment for Parcel #1.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal in regards to the improvement on Parcel #1. 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.

The Board finds the best evidence of assessment equity with regard to the improvement on Parcel #1 to be appellant's comparables #1, #2, #3, #4, #6, #7, and #8. These comparables had improvement assessments that ranged from \$8.64 to \$12.60 per square foot of living area. The Parcel #1's improvement assessment of \$15.50 per square foot of living area falls above the range established by the best comparables in this record. Based on this record, the Board finds the appellant did demonstrate with clear and convincing evidence that the Parcel #1's improvement was inequitably assessed, and a reduction in the Parcel #1's improvement assessment is justified.

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In regards to the appellant's square footage argument for the improvement at issue on Parcel #2, the Board finds that this improvement contains 1,342 square feet (as reported by the board of review), and that the entirety of this improvement is properly classified as a class 2-03 improvement. While the appellant submitted a drawing of the subject, and testified as to how he arrived at the measurements on the drawing, the Board is not persuaded that the drawing is accurate.

The Board is also not persuaded that this improvement should have two different classifications, as the majority of this improvement is used for residential purposes. Even if a portion of this improvement is used for farm purposes, and these portions were classified as class 2-24 improvements, this improvement's assessment would remain the same, as all portions of this improvement would still be considered class 2. For these reasons, the Board finds that a reduction is not warranted with regard to the improvement at issue on Parcel #2.

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APPELLANT:	Warren Strieker
DOCKET NUMBER:	12-03180.001-R-1
DATE DECIDED:	April, 2015
COUNTY:	Clinton
RESULT:	No Change

(Please note, the Property Tax Appeal Board recognizes this case was filed as a residential appeal, however the evidence and context of this decision primarily relates to farmland issues.)

The subject property consists of a 30.90 acre tract of land improved with a 736 square foot frame structure with an attached 253 square foot porch. The structure was built in 2006. The property is located in Germantown, Germantown Township, Clinton County.

The appellant presented a contention of law asserting that the frame structure and attached porch are a non-permanent, non-fixed structure and should not be classified and assessed as real estate. In a letter to the Board, the appellant contends that there is not a foundation on or under any structure on the parcel. Instead, there is a "workboat" setting in the area that has been assessed as a farm homesite. The workboat is not attached to a footing or foundation and can float as needed. The appellant contends that due to the structure being in a flood plain it was not on a foundation, but set upon pontoons filled with foam and a 40 foot long beam sitting on top of the ground. The porch was sitting on stone pillars sitting on top of the ground with shims. The appellant stated in the letter there were no footings. The appellant indicated that the workboat was used as a workshop in conjunction with the tree farm operation. The structure provided not only storage for tools and a water pump, but also served as a shelter for farm workers while working the tree farm. The appellant also noted that the solar panels and generators attached to the workboat assisted with the farm work.

In support of these arguments, the appellant submitted several photographs showing the structure under construction. Also submitted was an Illinois Department of Natural Resources (DNR) "permit" to "construct a floating building" submitted by the appellant.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$11,796 was disclosed. The subject's assessment consists of a farmland assessment of \$816, a land/lot assessment of \$1,330 and a non-farm building assessment of \$9,650. The board of review submitted a letter and a copy of the decision of the Property Tax Appeal Board considering a similar argument from the appellant in Docket No. 10-00032.001-F-1 along with a copy of the subject's property record card. The board of review requested confirmation of the subject's assessment.

After considering the evidence and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellant argued the subject property was incorrectly classified and assessed as real property and indicated the structure should not be taxed as real estate as the structure lacks a permanent foundation. The Board finds the evidence in the record does not support this claim.

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The Property Tax Appeal Board finds the sole issue before this Board is whether the subject structure, a "floating building" is to be classified and assessed as real property.

Illinois' system of taxing real property is founded on the Property Tax Code. (35 ILCS 200/1-1 et seq.) Section 1-130 of the Property Tax Code defines real property in part as:

The land itself, with all things contained therein, and also buildings, structures and improvements, and other permanent fixtures thereon, . . . (35 ILCS 200/1-130). [Emphasis added.]¹

In light of the foregoing definition, the Property Tax Appeal Board finds the subject "workboat" is a "structure" which was correctly classified and assessed as real property.

In Ayrshire Coal Company v. Property Tax Appeal Board, 19 Ill.App.3d 41 (3rd Dist. 1974), the court addressed the issue of distinguishing between real and personal property. In determining the property classification of heavy machinery and equipment and whether they were annexed to real estate, the court held:

. . . [p]ersons dealing with land and improvements thereon may consider a building thereon as personalty for their purposes, but such treatment as between individuals, does not change essential characteristics of building as realty. Id. at 44-45.

The court emphasized that an examination of the item, not the contractual language or booking practices, should establish the classification of an item. The court in Ayrshire further wrote, "[a] structure has been defined in the broad sense as any construction or piece of work composed of parts joined together in some definite manner." Id. at 45. In addition, the court noted:

A building has been defined as a fabric, Structure, or edifice, such as a house, church, shop, or the like, designed for the habitation of men or animals or For the shelter of property. [Capitalization as shown; citation omitted.] Id. at 45.

In the case of In re Hutchens, 34 Ill.App.3d 1039 (4th Dist. 1976), the court noted that the trial court held that:

. . . the manner of the placement of the cabin on blocks and a provision of the lease for plumbing connections between the cabin and a septic tank and a well sufficiently attached the cabin to the land to 'become a part of it.' Id. at 1040-1041.

On appeal, the Fourth District Appellate Court held that as far as property taxes are concerned, the finding of the trial court that the cabin was part of the real estate was not contrary to the manifest weight of the evidence.

¹ The Property Tax Appeal Board recognizes that this provision was modified as of January 1, 2011 in a manner that does not impact the arguments in this proceeding.

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After considering the evidence and record including the photographs of the subject "floating building," the Board finds the improvement is a "building" or a "structure" as defined in Section 1-130 of the Property Tax Code (35 ILCS 200/1-130). Thus, based on this record, the Board finds the building is real property and may be assessed as such regardless of its foundation.²

The Property Tax Appeal Board finds the subject "floating building" is properly classified as assessable real property. As the appellant made no other challenge to the assessment of the structure, no change in the improvement assessment is warranted.

² The instant case is distinguishable from those cases where the structure is identified as a vehicle or similar portable structure such that it can be classified based on its physical foundation pursuant to the Property Tax Code. See Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711 (2nd Dist. 1996).

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PROPERTY TAX APPEAL BOARD
SYNOPSIS OF REPRESENTATIVE CASES
2015 COMMERCIAL DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
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APPELLANT:	William & Maria Butts
DOCKET NUMBER:	12-04287.001-C-1
DATE DECIDED:	July, 2015
COUNTY:	Jo Daviess
RESULT:	No Change

The subject property consists of a three-story building of brick exterior construction with 4,320 square feet of building area. The building was constructed in 1848. The building has a first floor bookstore with retail space on the second floor and a third floor loft apartment which has access to the street level. The property has a 1,932 square foot site and is located on Main Street in Galena, West Galena Township, Jo Daviess County.

The appellants contend assessment inequity as the basis of the appeal. No dispute was raised concerning the subject's land assessment. In support of the improvement inequity argument, the appellants submitted information on five equity comparables located on the same street as the subject and within four blocks of the subject. The appellants reported that these comparables were similar to the subject with retail on the first floor and apartments or office/storage in the upper floors. The comparable brick buildings range in story height from 3 to 4 stories and range in building size from 4,275 to 6,640 square feet of building area. These comparables have improvement assessments ranging from \$84,783 to \$110,373 or from \$16.62 to \$22.12 per square foot of building area.

The appellants also submitted a document setting forth the assessor's condition impressions of the subject property based upon an inspection on March 20. The assessor found the first floor to be in overall good condition; the second floor was in overall average/good condition with some maintenance issues around interior windows and a recurring ceiling crack; and the third floor storage area was in below average condition with "walls falling apart", tuck pointing issues and ceiling water damage. The assessor also described some needed tuck pointing around windows on the front exterior which was characterized as average condition or low good condition. The assessor also described the rear exterior of the subject as in need of some major repairs and tuck pointing with a low average or poor condition with low quality/cheap grade aluminum single pane windows on the second and third floors.

Based on this evidence, the appellants requested a reduced improvement assessment of \$105,000 or \$24.31 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$126,865. The subject property has an improvement assessment of \$121,320 or \$28.08 per square foot of building area.

In response to the appellants' comparables, the board of review submitted a memorandum contending that the comparables presented by the appellants were each in average, below average or in below average to poor condition as compared to the subject property which the board of review characterized as having "new ceiling and flooring and modern lighting in addition to custom built stairway." The comparable properties have original flooring, ceilings

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and/or older lighting which would require remodeling to bring the properties up to the standards of the subject. The board of review also asserted that appellants' comparable #4 was a four story building that is dissimilar to the subject; to further support the difference, the board of review submitted Exhibit B, a grid analysis of four sales of one, four-story, two, two-story and a one-story building located on Main Street to depict the variations in sales prices where the four-story building reflected the lowest price per square foot. As to the condition of appellants' comparable #5, the board of review submitted Exhibit C reflecting the assessor's inspection report for this comparable as of May 2013 along with photographs. The inspector found original flooring and ceiling throughout the building, a need to replace windows and the roof among other observations.

In its memorandum, the board of review asserted that a large percentage of the buildings on Main Street are in need of major repairs or upgrading with most buildings having original wood floors, walls and ceilings and where the lighting has not been upgraded. Since an assessment is to reflect 33.33% of fair cash value of a property, the board of review asserted that properties in average or below average condition should not be assessed the same as a property that has been remodeled and is in good condition.

In support of its contention of the correct assessment the board of review submitted Exhibit D, a two-page grid analysis, with information on six equity comparables located on Main Street. The comparables consist of three-story brick buildings, one of which has a two-story addition. The comparables range in size from 2,400 to 6,000 square feet of building area. These comparables have improvement assessments ranging from \$73,471 to \$168,635 or from \$25.51 to \$44.98 per square foot of building area.

The board of review also reported that the subject property was listed for sale with a Realtor for \$479,000 (Exhibit E). The listing depicted the subject building as having been restored in 1994 featuring an oak staircase, hard-wired sound system, brass wall hanging system and full alarm system. The subject's total assessment reflects an estimated market value of approximately \$380,595.

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

Conclusion of Law

The taxpayers contend 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 appellants did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties presented a total of eleven equity comparables located on Main Street in Galena to support their respective positions before the Property Tax Appeal Board. The Board has given

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reduced weight to board of review comparable #1 and appellants' comparables #4 and #5 as these three buildings each contain 6,000 or more square feet of building area and therefore differ substantially in size from the subject building that contains 4,320 square feet. In addition, appellants' comparable #4 is a four-story building and board of review comparable #1 has a two-story addition which makes these buildings different in design from the subject building. Similarly, the Board has given reduced weight to board of review comparable #5 which is significantly smaller in building area at 2,400 square feet when compared to the subject structure.

The Board finds the best evidence of assessment equity to be appellants' comparables #1, #2 and #3 and board of review comparables #2, #3, #4 and #6. These seven comparables had varying degrees of similarity to the subject building. Each was a three or 3.5 story brick building that ranged in size from 2,880 to 5,292 square feet of building area. These comparables had improvement assessments that ranged from \$18.83 to \$29.71 per square foot of building area. The subject's improvement assessment of \$28.08 per square foot of building area falls within the range established by the best comparables in this record and appears to be well-justified given the subject's condition.

Based on this record the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

Furthermore, proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The Court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The Court in Apex Motor Fuel further stated:

the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test.[citation.] Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the Supreme Court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the Court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21. There is evidence in the record that as of the filing of the board of review's evidence, the subject property was listed for sale on the market

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with an asking price of \$479,000 which is higher than the subject's estimated market value as reflected by its assessment.

In conclusion, the constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. 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. For the foregoing reasons, the Board finds that the appellants have not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no reduction is warranted.

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APPELLANT:	<u>Cedar Realty</u>
DOCKET NUMBER:	<u>10-22838.001-C-1</u>
DATE DECIDED:	<u>November, 2015</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>No Change</u>

The subject property consists of a 6,250 square foot parcel of land improved with an 81-year old, four-story, masonry, single-room occupancy building containing approximately 23,588 square feet of building area. The property is located in Lake View Township, Cook County and is a class 2-25 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an Economic Analysis of the Transient Hotel Rental Operation undertaken by Kestutis Puidokas, Harry Fishman, and Mitchell Perlow with Property Valuation Services, LLC. The report indicates that the appraisers are certified general real estate appraisers and that Perlow holds the MAI designation. The analysis indicated the subject has an estimated market value of \$880,000 as of January 1, 2009. The report discloses that this assignment is subject to the assumption that taxes will be reduced.

In describing the income analysis, the appraisers disclose that the gross potential income of the subject will be developed from the rental of the rooms. The appraisers disclose that the economic analysis for evaluation is based upon the actual current income stream of the rooms and a market income for the commercial space. The appraisers disclosed the actual income for the subject at 100% occupancy to conclude a gross potential income of \$609,400. Vacancy and collection were estimated at 20%. This reflects an effective gross income of \$487,552. A discount for the replacement of personalty and ancillary equipment was calculated at \$120,500. This value was broken down over the personalty's useful life for an estimated amount of \$17,214. The return on the personalty was estimated at a depreciated value of \$2,410 for a total of \$19,624 attributed to personalty that is deducted from the income.

Pro Forma stabilized expenses were estimated at \$22,360 for a net operating income of \$367,208 for a total net income attributed to the real property of \$100,720. Using the band of investment method, a capitalization rate of 10% was estimated. This rate was then loaded to account for real estate taxes to estimate a value based on the subject's income of \$880,000, rounded.

In conclusion, the appraisal discloses that this economic analysis was not a market valuation appraisal report, but rather an evaluation of the annual potential cash flow that could reasonably be anticipated from the business operation of the subject.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$130,234. The subject's assessment reflects a market value of \$1,456,756 using the Illinois Department of Revenue's 2010 three-year median level of assessment for class 2 property of 8.94%.

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In support of its contention of the correct assessment the board of review submitted three single room occupancy hotel sale comparables.

Conclusion of Law

The appellant contends 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 has not met this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the appellant's economic analysis flawed in regards to its lack of market sales data. This report did not include any market sales or justify why sales were not included within the analysis. In addition, the analysis discloses that it was not a market valuation report, but rather an evaluation of the annual potential cash flow that could reasonably be anticipated from the business operation of the subject.

The court has held that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law." Cook Cnty. Bd. of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3d 472 at 484 (1st Dist. 2008). The Illinois Appellate Court recently revisited this issue in Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" case). In Sears, the court stated that, while the use of only one valuation method in an appraisal is not inadequate as a matter of law, the evidence must support such a practice and the appraiser must explain why the excluded valuation methods were not used in the appraisal for the Board to use such an appraisal. Id. at ¶ 29.

In this case, the appraisers provided no plausible reasons for excluding these valuation methods. Therefore, the Board finds that reliance on the appellant's economic analysis would be deficient as a matter of law. In addition, the board of review supplied sale comparables of three properties similar to the subject that support the subject's market value and no reduction is justified.

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APPELLANT:	<u>Cress Creek Golf Club, Inc.</u>
DOCKET NUMBER:	<u>11-03328.001-C-3</u>
DATE DECIDED:	<u>November, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>No Change</u>

The subject property consists of 132.46 acres improved with a clubhouse with approximately 15,937 square feet of above grade area and 16,047 square feet of lower level area, a pool house with 2,392 square feet of building area, a 3,396 square foot in-ground swimming pool, a 2,849 square foot in-ground lap pool, four maintenance buildings that range in size from 572 to 6,000 square feet of building area and an 18 hole golf course. The clubhouse, pool house, swimming pools and associated asphalt parking area are located on approximately 4.6 acres. The maintenance buildings are located on approximately .5 acres and the golf course is composed of approximately 127.36 acres.¹ The property is located in Naperville, Naperville Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel, Anthony Farace, arguing the subject property should be assessed as open space. In a brief the appellant explained that the DuPage County Supervisor of Assessments had placed a dual assessment on 130.17 acres of the property due to its classification as "open space" with the remaining 2.29 acres of the property being assessed as commercial land. The appellant argued that the entire 132.46 acres be assessed as open space as provided by section 10-155 of the Property Tax Code (35 ILCS 200/10-155). Citing Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, 953 N.E.2d 1010, 1015, 352 Ill.Dec. 329, the appellant argued the court clarified the definition of open space and provided that "... the land, even if it contains an improvement, may be granted open space status if it conserves landscaped areas." The appellant asserted that the court opined that a golf course requires structures in order to function, and without such structures the course would not exist. The appellant contends that the structures located on the subject property are consistent with Onwentsia and are necessary for the overall operation of the golf course, which does conserve landscaped areas as required by the open space statute. The appellant asserted the subject has a land assessment of \$749,140 and an improvement assessment of \$1,847,960. The appellant also stated that the supervisor of assessments was assessing open space land at \$5,290 per acre. Citing Consumers IL Water Co. v. Property Tax Appeal Board, 363 Ill.App.3d 646, 844 N.E.2d 71, 75, 300 Ill.Dec. 399 (4th Dist. 2006), for the proposition that there is a single assessed value for properties qualifying for open space and the improvements are not to be separately assessed, the appellant requested the 132.46 acres be assessed at \$5,290 per acre or \$700,713.

The appellant called as its witness Wally Hynes, general manager and head golf professional of Cress Creek Golf Club. Hynes has been employed by the appellant for 22 years. The witness described the clubhouse as a two-level facility. The lower level encompasses locker rooms, the golf shop, golf cart facility and card rooms. The first floor or upper story houses the office

¹ The data with respect to the buildings and acreage was submitted to the Property Tax Appeal Board by the DuPage County Board of Review by letter dated March 31, 2015 and is found at pages AE17A and AE17B.

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spaces, a pub, dining rooms and restaurant area. The first floor also has a trophy room called the Heritage Hallway. The clubhouse is constructed into a hill with the lower level or basement, which is fully finished, opened to the back. Hynes agreed that the lower level of the clubhouse has 16,047 square feet of building area and the first floor or upper level has approximately 15,937 square feet. The witness further explained the lower level has a bag storage area for all golf clubs, a caddie room, the golf shop for merchandise and restrooms. During the winter months the pro shop remains open and the cart barn or cart facility is turned into a teaching area with hitting stations and video lessons. Hynes testified the maintenance of the golf course is handled by the maintenance facilities.

Under cross-examination Hynes explained that the golf club is a private facility and there is no public restaurant. Those with a golf membership, dining membership or social swim and tennis membership are allowed to eat at the restaurant.

Hynes explained the present clubhouse opened in June 2004, it had replaced a previous clubhouse on the property. He was of the opinion the basement level was primarily used in connection with the golf course. This area has both men's and women's locker rooms. The basement also has card rooms, which are part of the locker rooms, and are lounge areas used by players to play cards or eat. Also located in the basement is a "cart barn" used to store golf carts. The baggage storage area is used to store the golf bags for the members. The caddie room is where the caddies check in with the caddie master and their supplies are stored. In the winter months the caddie room is used for teaching. The pro-shop is used to sell clothing and golf equipment. There are also restrooms, an engineer's room, which maintains the building, and a mechanical room in the basement.

The upper floor has various offices used for business operations, a pub or bar area, dining room, a restaurant and trophy hallway. Hynes testified that the banquet facility is part of the dining room facility. The kitchen, banquet facility and pub are open year round.

The witness testified that the golf course is open for play 12 months a year, weather permitting. He explained that they put the pins in temporary greens that allows access so if the members can play, they can. He explained Cress Creek Golf Club is a private club and you have to be a member to play. Hynes testified the subject property had a gross income of about \$4.5 million and about \$2.5 million was related to golf and about \$2.0 million was associated with the kitchen, grill and banquet facility.

Other buildings on the site included a bath house, which contains the locker rooms for the swimming pool. This building also has a snack bar area and houses the pump filters for the pool.

Hynes testified there were also four maintenance buildings on the site. Each of these buildings is of wood frame construction with a concrete floor. Hynes testified the subject property has a maintenance building with approximately 7,000 square feet of building area, which is used to repair and store maintenance equipment as well as store supplies. The equipment stored included various types of mowers used to maintain the course, sprayers used for fertilizers, equipment used to rake bunkers, equipment used for sharpening reels, a pick-up truck used throughout the course and a parts room which keeps supplies for the equipment. There is also a spray barn used to keep one of the sprayers used to apply fertilizer and herbicides on the golf

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course. Hynes also testified there was a back barn that houses additional equipment from aerifiers to additional carts or carry-alls used on the golf course for maintenance. The witness also testified there is a pump house located on the site which houses all of the irrigation system to pump the water to the entire golf course to maintain the course. The subject property also has a restroom near 6th green and 7th tee-box available for the golfers. The appellant also testified there is a tennis hut used by the professional tennis staff and stores the timer for the irrigation system for the clay tennis courts.

Hynes further testified there is asphalt parking for 225 cars used by someone using the facilities. He testified that there is no special designation for those there to golf, play tennis, swim or dine.

The appellant called no other witnesses on its behalf. Based on this record the appellant requested the subject's assessment be reduced to \$700,713.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$2,597,100 with a land assessment of \$749,140 and an improvement assessment of \$1,847,960.

The board of review called as its witness Craig V. Dovel, the DuPage County Supervisor of Assessments.² Dovel prepared a memo dated August 21, 2013, which was attached to the "Board of Review Notes on Appeal," explaining that section 10-160 of the Property Tax Code (35 ILCS 200/10-160) requires that in counties with less than 3,000,000 inhabitants, the person liable for taxes on land used for open space purposes must file a verified application with the chief county assessment officer by June 30th of each year the open space valuation is desired. He also noted that if the application is not filed, the taxpayer waives the right to claim the additional open space value for that year. The memorandum stated that his office did not have an application on file for the subject property. Dovel testified at the hearing that with respect to both the 2011 and 2012 tax years his office has no open space applications on file for the subject property. Nevertheless, Dovel calculated an open space assessment for the subject property. In the memorandum Dovel explained the 2011 fair-cash value assessment established by the township assessor was:

Land:	\$3,276,620
Building:	\$1,729,240
Total:	\$5,005,760 ³

Dovel described the subject property as having 132.46 acres improved with a banquet facility, restaurant, clubhouse, swimming pool, utility buildings and a golf course. He testified that the main distinction used was that in any areas improved with a "non-impervious" improvement are typically retaining the fair cash assessment originally assigned by the township assessor's office. Utilizing an aerial photograph Dovel measured 2.29 acres of land that was not covered by non-impervious improvements with the balance or 130.17 acres being used as a golf course. In the

² Section 1-15 of the Property Tax Code (35 ILCS 200/1-15) defines Chief County Assessment Officer stating:

Chief county assessment officer. The supervisor of assessments or the county assessor in each county.

³ This was in fact the fair cash value assessment for 2012.

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memorandum Doval asserted that he believed that manicured green space area and ponds qualified for the preferential open space assessment and given the fact that the taxpayer had a long standing history of filing timely open space applications for the parcel, he granted the preferential open space assessment on 130.17 acres and retained the township assessor's original fair cash assessment on the remaining portion of the subject property. Doval testified that the open space value is a uniform rate that is applied across the county. For the 2011 tax year the open space rate was \$5,290 per acre and for the 2012 tax year the open space rate was \$4,900 per acre. He further testified that the dual valuation that was assigned to the subject parcel for 2011 and 2012 was a hybrid of both the preferential and the non-preferential assessed values. The open space assessment for 2011 was set forth as:

	2.29 Acres Non- Preferential	130.17 Acres Preferential	Combined
Land:	60,540	688,600	749,140
Building:	1,847,960	0	1,847,960
Total:	1,908,500	688,600	2,597,100

Dovel was of the opinion that the appellant previously waived its right to expand the preferential assessment with the lack of filing a timely application for open space.

Under cross-examination Doval testified that the township assessor had assigned an assessed value of \$1,847,960 to the improvements and that building assessment was retained in the hybrid assessment. The witness testified that he is the person that calculates the open space assessment and is not concerned with the improvement assessments. He did not know what portion of the improvement assessment was attributed to the various improvements on the subject property and was not in a position to allocate the improvement value against the various improvements.

Dovel testified that there were no open space applications applied for the subject property in 2011 and 2012. He indicated all applications go to him and he reviews and approves them. Although he received no open space applications for the subject property for the years in question, Doval believed it was in everybody's best interest to give the open space preferential assessment because the property was obviously being used as a golf course and if it was further litigated and found eligible to receive the preferential value, that the potential loss and assessed valuation from the time of tax extension to after the tax extension would create a hardship for the various taxing districts involved. Doval testified this was his typical reaction throughout the county, if he does not receive an open space application and he feels comfortable that the property is in an open space use. He also agreed that there was a long-standing history of filing for open space on this parcel. The witness further explained that "non-impervious" improvements are anything that prevents ground to absorb water.

The next witness called on behalf of the board of review was Scott Koca, Naperville Township Deputy Assessor. The board of review presented Board of Review Exhibit A, which was prepared by Koca, which contained a list of the various buildings and the identification of the various parcels they are located on.⁴ The exhibit also had the fair cash value assessments and the

⁴ The exhibit included information about PIN 07-12-104-041, which contained the tennis courts. The appeal of this PIN for 2012 tax year was withdrawn by the appellant.

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open space assessments for the 2011 and 2012 tax years. Koca has been in the assessment field for six years and has been a deputy assessor with Naperville Township for the past year. Koca also has the Certified Illinois Assessing Officer (CIAO) designation.

For the 2011 tax year the subject property had an improvement assessment of \$1,847,960 and for the 2012 tax year the subject property had an improvement assessment of \$1,729,140. Koca testified that he did not have a breakdown of the assessments for the individual buildings on the site. The building assessments were the cumulative assessment of the building improvements on the site.

Under cross-examination Koca agreed the clubhouse contained 15,937 square feet of building area on the upper level and 16,047 square feet on the lower level. He noted that the clubhouse measurement on Exhibited A was depicted in red because it is the only official measurement on record on the property record card. Other improvements identified as being located on the subject parcel included a pool house, maintenance building, two-car garage, bath house, service garage, in-ground pool and in-ground lap pool.

In rebuttal Hynes testified that the two-car garage identified on Board of Review Exhibit A would be the fertilizer barn, the bath house would be connected with the swimming pool and the service garage would be what he identified as the back barn.

At the hearing the DuPage County Board of Review was granted 30-days to submit to the Property Tax Appeal Board information that would delineate the buildings on the subject parcel and the values associated with the buildings. Following the hearing the DuPage County Board of Review submitted a response from Deputy Township Assessor Scott Koca, which included various attachments. In summary Koca was of the opinion that the only building valued at the subject property for the 2011 and 2012 tax years was the clubhouse. The submission also included a revised "Land & Improvement Data Sheet" with changes to reflect building details obtained after a field check of the property (AE17A & AE17B), revised building sketches after the field check (AE20 – AE22) and updated photographs of the improvements (AE23 – AE27).

Conclusion of Law

The appellant's argument is based on a contention of law that the subject property, inclusive of the buildings, should receive the preferential open space assessment as provided by section 10-155 of the Property Tax Code (hereinafter "the Code") (35 ILCS 200/10-155). Where a contention of law is made the standard of proof is the preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellant did not meet this burden of proof and a reduction to the subject's assessments is not warranted.

The issue in this appeal deals with application of sections 10-155 and 10-160 of the Code, the open space statute, to buildings located on the subject golf course. Sections 10-155 of the Code provides in part:

§10-155. Open space land; valuation. In all counties, in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the

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assessment is made, **upon application under Section 10-160**, (emphasis added) shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.

Land is considered used for open space purposes if it is more than 10 acres in area and: . . .

(d) conserves landscaped areas, such as public or private golf courses. . .

Land is not considered used for open space purposes if it is used primarily for residential purposes.

If the land is improved with a water-retention dam that is operated primarily for commercial purposes, the water-retention dam is not considered to be used for open space purposes despite the fact that any resulting man-made lake may be considered to be used for open space purposes under this Section. (35 ILCS 200/10-155).

Furthermore, section 10-160 of the Code provides:

§10-160. Open space; application process. . . . For taxable years prior to 2011, in counties with less than 3,000,000 inhabitants, the person liable for taxes on land used for open space purposes must file a verified application requesting the additional open space valuation with the chief county assessment officer by January 31 of each year for which that valuation is desired. **For taxable year 2011 and thereafter, in counties with less than 3,000,000 inhabitants, the person liable for taxes on land used for open space purposes must file a verified application requesting the additional open space valuation with the chief county assessment officer by June 30 of each year for which that valuation is desired. If the application is not filed by January 31 or June 30, as applicable, the taxpayer waives the right to claim that additional valuation for that year.** (Emphasis added). The application shall be in the form prescribed by the Department and contain information as may reasonably be required to determine whether the applicant meets the requirements of Section 10-155. If the application shows the applicant is entitled to the valuation, the chief county assessment officer shall approve it; otherwise, the application shall be rejected.

When such an application has been filed with and approved by the chief county assessment officer, he or she shall determine the valuation of the land as otherwise permitted by law and as required under Section 10-155, and shall list those valuations separately. The county clerk, in preparing assessment books, lists and blanks under Section 9-100, shall include therein columns for indicating the approval of an application and for setting out the two separate valuations. (35 ILCS 200/10-160).

The Board finds the testimony provided by Dovel was not contradicted by any testimony or evidence from the appellant that the appellant or the person liable for the taxes did not file a

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verified application requesting the additional open space valuation with the chief county assessment officer for the subject property for the 2011 and 2012 tax years, as required by sections 10-155 and 10-160 of the Code. The Board finds due to the fact that no verified open space application has been filed by the owner or person liable for the taxes, the appellant has waived its right to claim the preferential open space assessment for the subject property for the 2011 and 2012 tax years.

The evidence and testimony provided by Dovel, however, revealed that although no open space applications had been filed for the 2011 and 2012 tax years, he nevertheless computed an open space assessment for 130.17 acres of green areas commonly associated with the golf course itself not covered with a "non-impervious" improvement. He testified there had been prior open space applications for this parcel and this parcel had previously received the preferential open space assessment on the portion devoted to the golf course. Doval testified this was his typical reaction throughout the county, if he does not receive an open space application and he feels comfortable that the property is in an open space use. The Board finds it is appropriate, based on Dovel's practice to compute an open space assessment in similar situations throughout the county where a verified open space application has not been filed, to confirm the open space assessment of the green space on the golf course. (See Moniot v. Property Tax Appeal Board, 11 Ill.App.3d 309, 296 N.E. 2d 354 (3rd Dist. 1973)). The Board finds, however, that due to the fact the appellant did not file verified open space applications for the 2011 and 2012 tax years, it will not extend consideration of the preferential open space assessment to the clubhouse, maintenance buildings, parking lot and other improvements located on the subject property.

Based on this record the Property Tax Appeal Board denies the appellant's request to classify and assess the additional 2.29 acres of the subject site as open space.

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APPELLANT:	<u>Harp Krug Venture</u>
DOCKET NUMBER:	<u>11-02779.001-C-2 & 11-02780.001-C-2</u>
DATE DECIDED:	<u>May, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>Increase</u>

The subject property for Docket No. 11-02779.001-C-2 identified by property index number (hereinafter "PIN") 08-05-300-044 (hereinafter "044") is a 1.2 acre site improved with a parking lot. The subject property for Docket No. 11-02780.001-C-2 identified by PIN 08-05-303-003 (hereinafter "003") is a .71 acre site improved with a driveway and three parking spaces. Both PINs are located in the Freedom Commons Subdivision, Naperville, Lisle Township, DuPage County.

At the beginning of the hearing the Property Tax Appeal Board marked an aerial photo depicting PIN 044 as Appellant's Exhibit A and marked an aerial photo depicting PIN 003 as Appellant's Exhibit B. The PINs at issue were highlighted in red on the respective exhibits. PIN 044 was located on the west corner near the intersection of Diehl Road and Freedom Parkway. PIN 003 was located at the southeast corner of the intersection of Freedom Parkway and Independence Avenue.

The appellant's attorney appeared before the Property Tax Appeal Board making a legal argument that the subject PINs should be assessed in accordance with section 10-31 of the Property Tax Code (hereinafter "the Code") (35 ILCS 200/10-31) and benefit from the preferential "Developer's Exemption." In a written statement filed by appellant's counsel he asserted that the Freedom Commons Subdivision consisted of 14 lots. Counsel asserted the subdivision plat was recorded on November 30, 2006 and stated that at the time the plat was recorded the subject parcels were identified by PINs 08-05-300-027 and 08-05-300-028. Attorney Elliott stated that at the time the plat of subdivision was recorded, the images taken in 2006 show the subject property was vacant, however, images taken in the fall of 2008 show the property was improved with infrastructure including streets, sidewalks, curbs and gutters but no habitable improvements. The appellant submitted affidavits purportedly signed by Bryan Barus, Property Manager of the properties known as 1715 Freedom Drive and 1752 Freedom Drive, Naperville, Illinois, identified by PIN 044 and PIN 003, respectively. In both affidavits Barus stated that as of January 1, 2011, the improvements consisted of curb, sewer, gutter and parking with no habitable improvements on the sites. The affiant further asserted that as of January 1, 2011 the properties were not used for any commercial purpose. Barus was not present at the hearing.

In both appeals Attorney Elliott argued that pursuant to section 10-31 of the Code, property in counties with less than 3,000,000 inhabitants, that contains more than 5 acres of area, that is platted in accordance with the Plat Act, and that at the time of platting was vacant or used as a farm, should not be assessed at its fair market value as a subdivided lot, but should be assessed "based on the assessed value assigned to the property when last assessed prior to its last transfer or conveyance." Elliott asserted that prior to the recording of the subject plat in November 2006, the underlying property was assessed as farmland at a market value of about \$9,000 or \$630 per

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acre. In support of this assertion the appellant submitted a copy of a printout for PIN 08-05-300-027 showing a 2005 land assessment of \$2,264 and a 2006 land assessment of \$1,896,880. On the printout was a hand written notation indicating the PIN had 14.32 acres. With respect to PIN 044 Elliott requested that the subject's 1.2 acres be assessed based on a market value of \$700 per acre or at a market value of \$840 resulting in an assessment of \$280. With respect to PIN 003 Elliott requested that the subject's .70 acres be assessed based on a market value of \$700 per acre or at a market value of \$500 resulting in an assessment of \$167.

At the hearing Elliott called Bruce Sundh as a witness. Sundh testified that the owner of the property in 2011 was Harp Krug Venture. The witness testified he was familiar with the subject property. He testified the name of the platted subdivision was Freedom Commons and to the best of his knowledge the platted subdivision was recorded on or about November 30, 2006. The witness indicated that at the time of platting the property was owned by Harp Krug Venture. Sundh indicated he did not know how large the underlying parcel development was at the time of platting, but that it was greater than 5 acres. The witness asserted that Harp Krug Venture owned the two PINs in question during 2011 and sold them after 2011. The witness also indicated to his knowledge the property was platted and subdivided in accordance with the Illinois Plat Act and the platting and subdivision occurred after January 1, 1978. Sundh also agreed the property was vacant or used as a farm at the time the plat was recorded.

Sundh identified Appellant's Exhibit A as an aerial photograph of PIN 044, highlighted in red. He also identified Appellant's Exhibit B as an aerial photograph of PIN 003, highlighted in red.¹

With respect to Exhibit B, Sundh indicated that there was no building constructed on PIN 003 on January 1, 2011. He testified that the dark areas on the aerial photograph appear to be parking and streets that were on PIN 003 on January 1, 2011. The witness identified the building to the south of PIN 003 as the Coopers Hawk restaurant that opened in August 2011. As of January 1, 2011 there was no operating, functional restaurant.

With respect to Exhibit A, Sundh identified the building to the east of PIN 044 as the Zapatista restaurant, which opened in January 2013. The witness also identified asphalt blacktop paving with parking spaces and "streets" on PIN 044, which he testified were in place as of January 1, 2011. He also agreed the parking spaces and "streets" were in place on PIN 003 as of January 1, 2011. The witness also testified that the developer created easements for ingress and egress across other parcels in the development. He also indicated the developer created cross parking easements for the parcels in Freedom Commons.

The witness testified that as of January 1, 2011, Harp Krug Venture owned PIN 044 and the parcel to the east of it. Sundh also testified that with respect to PIN 003, Harp Krug Venture sold the parcel to the east and south to the Cooper's Hawk restaurant in late 2010 or the beginning of 2011. With respect to PIN 003 Sundh testified that Harp Krug Venture did not rent this parcel to anybody during 2011 and there were no improvements other than the streets that were constructed on the parcel. The witness indicated that Harp Krug Venture did not do anything on PIN 003 other than to allow people to drive across the parcel.

¹ Counsel asserted that he obtained the aerial photographs from the DuPage County website the day before the hearing (10/13/14) and did not know the dates the aerial photographs were taken.

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With respect to PIN 044 Sundh testified that Harp Krug Venture did not rent this parcel to anybody during 2011. The witness also agreed that the streets on the parcels were private streets encumbered with easements for ingress, egress and parking. The witness also testified the developer did not install the sidewalks, curbs, sewer and water. He thought the developer probably installed storm sewers to the site and the utility lines.

Under cross-examination, Sundh explained (referencing Exhibit B) that the cross easement would allow drivers to cross PIN 003 to go to the Cooper's Hawk restaurant. Similarly, with respect PIN 044, considering the Zapatista restaurant and other buildings in this area of the development that are commercial restaurants; overflow traffic could use the parking spaces.

Sundh testified he worked for Harp Krug Venture from September 2010 to January 2014 as an accountant. He testified he handled all the accounting aspects of reporting, paying bills, collection of money and financial reporting. The witness testified he was not involved with the construction of the project but handled the accounting for the development and was not on the site on a day-to-day basis. Appellant's Exhibit C was marked, which was an aerial photograph submitted by the appellant, and identified by Sundh as depicting both PIN 044 (highlighted in red) and PIN 003.² The witness explained Exhibit C depicts Freedom Commons. The exhibit depicts buildings and parking areas similar to that on PIN 044. The witness indicated that the roads would go past the buildings in the development to PIN 044. He also testified the buildings depicted were constructed in 2009 and 2010 and would have been in existence as of January 1, 2011. He testified the parking lot on PIN 044 was constructed at the same time that the other streets for the rest of the site were constructed in 2009 and 2010. He also testified that a person could park on the parking lot on PIN 044 to use in connection with the other buildings on the site. The witness explained that access to Freedom Commons was made from Freedom Parkway at an entrance to the south end of the buildings and in the middle of the property from Independence Avenue. With respect to Exhibit C, Sundh was of the opinion the aerial photograph was taken before the fall of 2012 because the [Zapatista] restaurant wasn't even started. He indicated that the aerial photograph depicts that the Cooper's Hawk restaurant was under construction. He also agreed the aerial photograph depicts cars parked on PIN 044. The witness testified the parking lot on PIN 044 was designed to be used in connection with the other buildings within the site that are restaurants when there is overflow traffic during lunchtime.

With respect to Exhibit B, the witness testified the larger building at the lower right corner was not associated with the development. He agreed that PIN 003 would typically be used in conjunction with the Cooper's Hawk restaurant. The witness further explained that the "U" shaped road on PIN 003 was constructed to be used in connection with a bank with a drive-through as well as having three parking spaces. (No bank has been constructed.) He thought these improvements were also constructed in 2009 and 2010.

The board of review submitted its "Board of Review Notes on Appeal" for each PIN under appeal. PIN 044 had a total assessment of \$180,490 and PIN 003 had a total assessment of

² The Property Tax Appeal Board marked as Appellant's Exhibit D an aerial photograph that was submitted by the appellant in Docket No. 11-02780.001-C-2, which similarly depicts PINs 044 and 003 (highlighted in red).

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\$107,730; the assessment for each PIN was attributed to the land, neither parcel had an improvement assessment.

The board of review called as its witness Anthony Pacilli, deputy assessor of Lisle Township. Pacilli testified he had the Certified Illinois Assessing Official (CIAO) designation.

With respect to PIN 044 depicted on Appellant's Exhibit A, Pacilli agreed the property is improved with a paved area that is striped for parking. With respect to PIN 003 depicted on Appellant's Exhibit B, Pacilli agreed the property is also improved with a paved area. Pacilli indicated he did not know when the area was paved. The witness testified land in the development is uniformly assessed.

Pacilli indicated that the pavement on PIN 044 was not assessed. He testified that asphalt is assessed at \$1.00 per square foot. The deputy assessor testified there was 25,750 square feet of asphalt on the site, which would have an assessment of \$25,750.

With respect to PIN 003 Pacilli again testified the paved area was not assessed. He testified the paved area is 11,300 square feet and the assessment would be \$11,300.

The board of review requested the assessment on each PIN be increased to reflect an assessment for the asphalt pavement on the respective parcels.

Under cross-examination Pacilli testified that the evidence with respect to the asphalt pavement was not submitted as evidence but is based on his testimony.

Pacilli also testified under cross-examination that the asphalt on PIN 044 and PIN 003 was present on January 1, 2011. He also testified that the pavement was not assessed even though in practice they would have normally assessed the pavement. He testified a data entry error could have caused the pavement not to be assessed. Pacilli explained the pavement assessment was not attributed to the other parcels in the development improved with buildings, but was omitted or missed.

Pacilli identified the yellow highlighted area on the aerial photograph attached to the Board of Review Notes on Appeal associated with PIN 044 as depicting the subject parcel. To his knowledge the aerial photograph accurately depicted the way the property looked as of January 1, 2011. The witness also identified the yellow highlighted area on the aerial photograph attached to the Board of Review Notes on Appeal associated with PIN 003 as depicting the subject parcel. The witness also testified he considers asphalt to be an improvement.

In redirect, Pacilli agreed that it was the assessor's position that pavement in this development is assessed as an improvement and that it is uniformly assessed at \$1.00 per square foot.

Conclusion of Law

The appellant raised a contention of law arguing the subject parcels should each be assessed in accordance with section 10-31 of the Code (35 ILCS 200/10-31) and receive the so called

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"Developers Exemption." When a contention of law is raised the burden of proof is a preponderance of the evidence.³ The Board finds the appellant did not meet the burden of proof.

Section 10-31 of the Code provides in part:

Subdivisions; counties of less than 3,000,000.

(a) In counties with less than 3,000,000 inhabitants, the platting and subdivision of property into separate lots and the development of the subdivided property with streets, sidewalks, curbs, gutters, sewer, water and utility lines shall not increase the assessed valuation of all or any part of the property, if:

(1) The property is platted and subdivided in accordance with the Plat Act;

(2) The platting occurs after January 1, 1978;

(3) At the time of platting the property is in excess of 5 acres; and

(4) At the time of platting or replatting the property is vacant or used as a farm as defined in Section 1-60.

(b) Except as provided in subsection (c) of this Section, the assessed valuation of property so platted and subdivided shall be determined based on the assessed value assigned to the property when last assessed prior to its last transfer or conveyance. An initial sale of any platted lot, including a lot that is vacant, or a transfer to a holder of a mortgage, as defined in Section 15-1207 of the Code of Civil Procedure, pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure, does not disqualify that lot from the provisions of this subsection (b).

(c) Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose: (i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section.... (35 ILCS 200/10-31).

³ 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.

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The Board finds there was no evidence disputing that the requirements of subsection (a) of section 10-31 were met. The appellant presented the testimony of Bruce Sundh that the property was platted and subdivided in accordance to the Plat Act; the platting occurred after January 1, 1978 with the plat being recorded in November 2006; at the time of platting the property was in excess of 5 acres; and at the time of platting the property was vacant or used as a farm. The board of review presented no evidence to refute this testimony.

Subsection (b) of section 10-31 provides the method by which the platted and subdivided lots are to be valued stating that, "the assessed value of property so platted and subdivided shall be determined based on the assessed value assigned to the property when last assessed prior to its last transfer or conveyance." Subsection (c) of section 10-31 provides, however, that the preferential assessment allowed by subsection (b) will cease, "Upon completion of a habitable structure on any lot of subdivided property, **or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose. . .**" (Emphasis added.)

The evidence and testimony in this record disclosed that each of the subject PINs had asphalt paving in place as of January 1, 2011. Aerial photographs in the record depict that the subject PINs and the other parcels in Freedom Commons have contiguous areas paved with asphalt with marked parking spaces and unmarked lanes or areas that allow for ingress and egress. The asphalt paving provided both parking and a means to traverse to the various parcels that comprised the Freedom Commons development. The evidence and testimony disclosed that even though PIN 044 and PIN 003 did not have any building improvements as of January 1, 2011, adjacent PINs that comprised Freedom Commons had building improvements that were used for business purposes including restaurants. The subject PINs allow access to these parcels and provided parking for the various businesses. Sundh testified that the developer created easements for ingress and egress across other parcels in the development. The appellant's witness also indicated the developer created cross parking easements for the parcels. This testimony was not refuted. The Board finds, however, this evidence and testimony establishes that the subject PINs were used in conjunction with other contiguous property at Freedom Commons for business or commercial purposes. The use of PIN 044 and PIN 003 in association with the other lots at the development for business or commercial purposes precludes the provisions of subsection (b) of Section 10-31 from being applied in determining the assessed valuation of the lots in question. Based on this record the Board finds the subject parcels do not qualify for the preferential assessment provided by section 10-31 of the Code and reduction in the land assessments is not justified.

The next issue before the Property Tax Appeal Board is whether or not the asphalt paving on the subject lots should be assessed. The Board finds that the evidence clearly established that both parcels were improved with asphalt paving as of the January 1, 2011 assessment date. Lisle Township Deputy Assessor Anthony Pacilli testified that asphalt paving was uniformly assessed at Freedom Commons at \$1.00 per square foot. He also testified there were 25,750 square feet of asphalt paving on PIN 044 and 11,300 square feet of asphalt paving on PIN 003. Pacilli testified that they would have normally assessed the pavement but for some reason it was missed. The deputy assessor also asserted that the assessor's position was that pavement in this development is assessed as an improvement. The appellant did not address this issue in its submission and

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provided no evidence with respect to the assessment of asphalt paving. Nevertheless, section 16-180 of the Code places the obligation on the Property Tax Appeal Board to determine "the correct assessment of property which is the subject of an appeal." (35 ILCS 200/16-180). Based on this record the Board finds that PIN 044 should have an improvement assessment of \$25,750 and PIN 003 should have an improvement assessment of \$11,300 for the asphalt pavement located on each parcel.

In conclusion, the Board finds that no reductions in the subject's land assessments are warranted and improvement assessments reflecting the asphalt paving are warranted for each parcel.

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APPELLANT:	Pro Excavating
DOCKET NUMBER:	09-33424.001-C-1
DATE DECIDED:	November, 2015
COUNTY:	Cook
RESULT:	Reduction

The subject property consists of 28,006 square feet of land improved with a one-story, masonry and metal clad, commercial building used as a storage warehouse. The building was constructed in 1999 and is located in Lake Township, Cook County. The subject is classified as a class 5, commercial/industrial property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$235,000 as of January 1, 2009. As to the subject's history, the appraisal stated that the subject sold on April 28, 2006, for a price of \$595,000, while indicating that the seller and buyer were identified as Standard Bank Trust. The appraisal discounted the sale stating that it appeared that the buyer/appellant paid above market sales levels. However, the appraisal did not submit further evidence to support this assertion. Further, the appraisal indicated that an inspection was undertaken on March 13, 2010 reflecting a building size of 3,000 square feet.

The appraisal developed one of the three traditional approaches to value. Under the sales comparison approach to value, the appraisal estimated a market value of \$235,000 for the subject.

The sales comparison approach to value used five sale properties, which were either warehouses or a free-standing building. The properties sold from February, 2006, to July, 2009, for unadjusted prices ranging from \$54.62 to \$79.17 per square foot of building area. The buildings ranged in size from 2,965 to 12,000 square feet and were built from 1957 through 1999. After adjustments, the appraisal estimated a market value for the subject of \$235,000 or \$78.00 per square foot of building area under this approach. The appraisal stated that 'per the client's request', only the sales comparison approach to value was undertaken.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$94,998. The subject's assessment reflects a market value of \$379,992 or \$121.79 per square foot of building area, using 3,120 square feet, when applying level of assessment for class 5, commercial property under the Cook County Real Property Assessment Classification Ordinance of 25%.

In support of its contention of the correct assessment, the board of review submitted raw sales data on five suggested sale comparables. These properties were retail/auto repair or retail/freestanding facilities. They ranged in building size from 2,000 to 3,750 square feet of building area and were built from 1969 to 1988. They sold from March, 2006, to October, 2009, for prices that ranged from \$120.00 to \$744.05 per square foot of building area.

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The appellant did not submit any rebuttal argument.

Conclusion of Law

The appellant contends 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 evidence reflects that a reduction in the subject's assessment is warranted.

The Board accorded diminished weight to the appellant's appraisal due to the terse dismissal of the subject's sale without further supporting evidence within the confines of the appraisal. The appraisal stated that the subject sold in April, 2006, for a price of \$595,000. The appraisal then stated that 'it appears the subject sold above market sales levels' and then dismissed the sale. In addition, the Board finds that the appellant waived the right to hearing wherein the appellant's appraiser could have been examined as to the methodology used within the appraisal and the evidence regarding the subject's purchase less than three years from the tax year at issue at a value which was one-third of its purchase price. Therefore, the Board shall give no weight to the adjustments and conclusions of value reflected in the appellant's appraisal.

The courts have stated that where there is credible evidence of comparables sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App. 3d 207 (2nd Dist. 1979), the Court further held that significant relevance should not be placed on the cost approach or the income approach especially when there is market data available. Id. Moreover, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989), the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach.

Therefore, the Board will also place significant weight on the sale comparables submitted into the record. In totality, the parties' submitted raw sales data regarding 10 comparables. Appellant's sales #1 and #3 as well as the board of review's sale #5 are all commercial, warehouse properties as is the subject property. These properties sold in a range from \$54.62 to \$120.00 per square foot of building area and range in building size from 2,965 to 5,035 square feet of building area.

After making adjustments to the sale comparables for pertinent factors, the Board finds that the subject's current fair market value is not supported and that a reduction is warranted to the subject property's assessment.

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APPELLANT:	<u>Royal Tee LLC</u>
DOCKET NUMBER:	<u>11-03322.001-C-3 thru 11-03322.002-C-3</u>
DATE DECIDED:	<u>March, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>No Change</u>

The subject property consists of two parcels that are part of a golf course commonly known as Klein Creek Golf Course. The golf course has approximately 135 acres of land situated on 19 parcel numbers (PINs), two of which are under appeal. PIN 05-06-209-018 has .91 acres and is improved with a one-story metal clad building with 6,050 square feet of building area and a smaller metal clad building. PIN 05-06-405-014 consists of 3.02 acres of land and is improved with a clubhouse and parking lot. The clubhouse is a one-story structure of stone construction with 7,149 square feet of building area. Features of the clubhouse include a full basement, one fireplace and central air conditioning. The property is located in Winfield, Milton Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel, Anthony M. Farace, contending the subject improvements on the two PINs under appeal are necessary for the operation of the golf course and should be assessed as open space as provided by section 10-155 of the Property Tax Code (35 ILCS 200/10-155). Counsel argued the court in Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, 352 Ill. Dec. 329, 953 N.E.2d 1010, clarified the definition of open space by holding that "land, even if it contains an improvement, may be granted open space status if it conserves landscaped areas." Onwentsia, 2011 IL App (2d) 100388 at ¶16. The appellant asserted the court in Onwentsia opined that a golf course requires structures in order to function and without such structures the golf course would not exist. The appellant's counsel argued that the improvements on the two PINs under appeal are necessary for the overall operation of the golf course, which does conserve landscaped areas as required by the open space statute, and should receive the open space designation. The appellant requested the open space improvement assessments on the PINs be reduced to \$0 and the land be assessed at \$5,290 per acre, the open space assessment that is applied by the Supervisor of Assessments.

During the hearing the appellant's counsel explained that the parcel with the maintenance buildings, PIN 05-06-209-018, does not have any portion assessed as open space. During the hearing counsel asserted the maintenance buildings on this parcel house the equipment necessary to operate the golf course. He argued that the land and all the buildings on this parcel are a necessary part of the golf course and are 100% used to conserve the golf course. Counsel further explained the second parcel under appeal, PIN 05-06-405-014, with the clubhouse and parking lot, is partially assessed as open space. Counsel asserted the clubhouse has a pro shop, restaurant, locker room facilities, offices and some maintenance facilities. He again argued that the improvements conserve the open space, which is the golf course. The appellant's counsel called no witnesses to testify with respect to the golf course; to testify about the various improvements and their uses on the respective PINs under appeal; and/or to explain how the various improvements relate to and facilitate the conservation of the golf course.

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Under questioning counsel stated Klein Creek Golf Course is a public course. He also explained the restaurant is open to the public year round and the golf course supports banquets, which anyone can use. Counsel did not have the financial information with respect to the income generated by the restaurant; the income generated from the playing of golf; or the number of rounds of golf played per year. The appellant also did not provide a breakdown of the area of the clubhouse devoted to the restaurant, locker room, pro shop, offices and maintenance facilities.

The board of review submitted its "Board of Review Notes on Appeal" disclosing PIN 05-06-209-018 as having a land assessment of \$95,814 with no improvement assessment. The board of review also disclosed PIN 05-06-209-014 had a total assessment of \$828,687 with a land assessment of \$284,970 and an improvement assessment of \$543,717.

The board of review called as its witness Craig V. Dovel, the DuPage County Chief County Assessment Officer.¹ Dovel prepared a memo dated June 5, 2013, which was attached to the "Board of Review Notes on Appeal," explaining that section 10-160 of the Property Tax Code (35 ILCS 200/10-160) requires that in counties with less than 3,000,000 inhabitants, the person liable for taxes on land used for open space purposes must file a verified application with the chief county assessment officer by June 30th of each year the open space valuation is desired. He also noted that if the application is not filed, the taxpayer waives the right to claim the additional open space value for that year. During the hearing Dovel testified there is a long-standing policy that for existing properties where the use has been established as open space and there is a history of prior applications in place, he has not penalized an individual for failing to file an open space application during the tax cycle. He testified that he has not ever received an open space application for PIN 05-06-209-018 and did not receive an application for this parcel as of June 30, 2011. Dovel testified, however, that his office previously received an open space application for PIN 05-06-405-014 but did not receive such an application for the 2011 tax year. Even though he did not receive an open space application for PIN 05-06-405-014 for 2011 he decided to give a small portion of the site an open space preferential assessment as it had previously been established. He testified that the open space applications go to him personally.

In the memo Dovel set forth the fair cash value assessments for the parcels as assigned by the Milton Township Assessor's Office as follows:

Parcel No.	Land	Improvement	Total
05-06-209-018	\$95,814	\$0	\$95,814
05-06-405-014	\$317,952	\$543,717	\$861,669

Dovel further explained that for PIN 05-06-405-014 he determined that .33 acres was used as a practice green and believed it qualified for the preferential open space assessment given that the previous taxpayer had a longstanding history of filing timely open space applications for this parcel. Calculating the open space assessment for this parcel reduced the land assessment to \$284,970. During the hearing Dovel testified this area had previously received the preferential open space assessment in 2010.

¹ Section 1-15 of the Property Tax Code (35 ILCS 200/1-15) defines Chief County Assessment Officer stating:

Chief county assessment officer. The supervisor of assessments or the county assessor in each county.

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Under questioning Dovel agreed that PIN 05-06-209-018 only had a land assessment and there was no improvement assessment even though this parcel has buildings on the site. The witness explained that in many cases when there is a large property divided into many parcels, it is common practice to place the improvement assessments on one or two of the parcels and not allocate them throughout the individual parcels that comprise the entire property. He noted that PIN 05-06-405-014 had an improvement assessment of \$543,717 and he operated under the assumption that was for the improvements specifically located on that parcel. He stated, however, it is possible that there may be other ancillary buildings included in that number.

Under cross-examination Dovel testified his records don't indicate that his office has ever received an open space application for PIN 05-06-209-018.

The next witness called by the board of review was Annette Rigali, Commercial Deputy Assessor for Milton Township. Rigali began working with the Milton Township Assessor's Office in January 2014. Rigali identified photographs of the buildings located on the subject PINs that were taken on June 16, 2014. She also provided copies of the property record cards for the respective PINs. (Marked as exhibits BOR #2 and BOR #3.) Although each property record card has some descriptive information, neither card had any assessment information. With respect to the property record card for PIN 05-06-209-018, she testified there is no value for the buildings on this card. She explained that according to the township records, the buildings on this parcel are included in the assessment for PIN 05-06-405-014. She testified the value for the buildings was not broken out. With respect to PIN 05-06-405-014, she agreed the improvement assessment was \$543,717 but indicated that by looking at the property record card you can't determine the calculations used to arrive at the number. There was no breakdown for the value attributed to the parking lot or the building on this parcel.

Based on this record, the board of review requested confirmation of the assessments.

Conclusion of Law

The appellant's argument is based on a contention of law that the subject property should receive the preferential open space assessment as provided by section 10-155 of the Property Tax Code (35 ILCS 200/10-155). Where a contention of law is made the standard of proof is the preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellant did not meet this burden of proof and reductions in the subject's assessments are not warranted.

The issue in this appeal deals with application of the section 10-155 of the Code, the open space statute, to buildings located on the subject golf course. Section 10-155 of the Code provides in part:

§10-155. Open space land; valuation. In all counties, in addition to valuation as otherwise permitted by law, land which is used for open space purposes and has been so used for the 3 years immediately preceding the year in which the assessment is made, upon application under Section 10-160, shall be valued on the basis of its fair cash value, estimated at the price it would bring at a fair, voluntary sale for use by the buyer for open space purposes.

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Land is considered used for open space purposes if it is more than 10 acres in area and: . . .

(d) conserves landscaped areas, such as public or private golf courses. . .

Land is not considered used for open space purposes if it is used primarily for residential purposes.

If the land is improved with a water-retention dam that is operated primarily for commercial purposes, the water-retention dam is not considered to be used for open space purposes despite the fact that any resulting man-made lake may be considered to be used for open space purposes under this Section. (35 ILCS 200/10-155).

Furthermore, section 10-160 of the Code provides:

§10-160. Open space; application process. . . . For taxable years prior to 2011, in counties with less than 3,000,000 inhabitants, the person liable for taxes on land used for open space purposes must file a verified application requesting the additional open space valuation with the chief county assessment officer by January 31 of each year for which that valuation is desired. **For taxable year 2011 and thereafter, in counties with less than 3,000,000 inhabitants, the person liable for taxes on land used for open space purposes must file a verified application requesting the additional open space valuation with the chief county assessment officer by June 30 of each year for which that valuation is desired. If the application is not filed by January 31 or June 30, as applicable, the taxpayer waives the right to claim that additional valuation for that year.** (Emphasis added). The application shall be in the form prescribed by the Department and contain information as may reasonably be required to determine whether the applicant meets the requirements of Section 10-155. If the application shows the applicant is entitled to the valuation, the chief county assessment officer shall approve it; otherwise, the application shall be rejected.

When such an application has been filed with and approved by the chief county assessment officer, he or she shall determine the valuation of the land as otherwise permitted by law and as required under Section 10-155, and shall list those valuations separately. The county clerk, in preparing assessment books, lists and blanks under Section 9-100, shall include therein columns for indicating the approval of an application and for setting out the two separate valuations. (35 ILCS 200/10-160).

The Board finds the testimony provided by Dovel was not contradicted by any testimony or evidence from the appellant that the appellant or the person liable for the taxes did not file a verified application requesting the additional open space valuation with the chief county assessment officer by June 30, 2011, for either PIN under appeal, as required by section 10-160 of the Property Tax Code. Dovel further testified that no open space application had ever been

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received by his office for PIN 05-06-209-018. The Board finds due to the fact that no open space application had been filed by the owner or person liable for the taxes for PIN 05-06-209-018, the appellant has waived its right to claim the preferential open space assessment for that PIN.

The testimony provided by Dovel was slightly different as it related to the open space assessment for PIN 05-06-405-014. He explained that although no open space application had been made by June 30, 2011 for this PIN, there had been prior open space applications for this parcel and this parcel had previously received the preferential open space assessment on the portion devoted to the practice green. The chief county assessment officer further testified that there is a long-standing policy that for existing properties where the use has been established as open space and a history of prior applications is in place, he has not penalized an individual for failing to file an open space application during the tax cycle. Considering this policy, the Board finds it was appropriate based upon the principle of uniformity for Dovel to compute the open space preferential assessment for PIN 05-06-405-014 as it related to the practice green. (See Moniot v. Property Tax Appeal Board, 11 Ill.App.3d 309, 296 N.E. 2d 354 (3rd Dist. 1973).

The next issue involves whether or not the appellant demonstrated that the clubhouse and parking lot on PIN 05-06-405-014 qualify for the open space assessment. It is undisputed that the improvements are part of a public golf course, which is one of the enumerated uses that qualify for the open space designation as set forth in section 10-155(d) of the open space statute. (35 ILCS 200/10-155(d)).

In Onwentsia Club v. Illinois Property Tax Appeal Board, 2011 IL App (2d) 100388, 953 N.E.2d 1010, 352 Ill.Dec. 329, (hereinafter "Onwentsia I") the court broadly construed the word "conserve" in section 10-155(d) of the Property Tax Code to mean "to keep in a safe or sound state . . ." or "to preserve." 2011 IL App (2d) 100388 at ¶10, 953 N.E.2d at 1013. The court in construing section 10-155(d) of the Property Tax Code stated:

[T]he plain language of the statute indicates that the legislature intended to grant open-space status not only to land that actually constitutes a landscaped area, but also to land that facilitates the existence of (*i.e.*, conserves) a landscaped area. Id.

The court concluded that the fact that a particular piece of land has some improvement upon it - including in some cases a building - does not preclude the land from being deemed open space. Onwentsia I, 2011 IL App (2d) 100388 at ¶11, 953 N.E.2d at 1014. In broadly construing the statute, the court determined that an improvement does not defeat the open space status unless the improvement is a commercial water-retention dam or a residential use. Onwentsia I, 2011 IL App (2d) 100388 at ¶14, 953 N.E.2d at 1014-1015. The court stated that, "the requirement that land *conserve* a landscaped area is broader and more inclusive than actually *being* a landscaped area." Onwentsia I, 2011 IL App (2d) 100388 at ¶14, 953 N.E.2d at 1015.

The court in Onwentsia I ultimately held "that land, even if it contains an improvement, may be granted open-space status if it conserves landscaped areas." 2011 IL App (2d) 100388 at ¶16, 953 N.E.2d at 1015. The court explained that "[a] golf course typically requires certain appurtenances in order to function, such as parking areas, a building in which to conduct the course business (*i.e.*, a clubhouse), and perhaps a building to support the physical maintenance of

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the course." Id. The court reasoned that "[s]ince they facilitate the existence of the golf course, and the course conserves landscaped areas, such improvements also can be said to conserve landscaped areas." Id.

The court explained that if an improvement contributes to the nature of the land as a landscaped area, it fits within the statutory definition of open space. The court stated that to the extent improved land facilitates a golf course being a golf course, it conserves a landscaped area. In vacating the decision of the Property Tax Appeal Board and remanding with directions, the court in Onwentsia I determined that the Property Tax Appeal Board had applied an incorrect standard and should have considered whether the land, improved or not (so long as not improved with a residence or commercial water-retention dam), conserves a landscaped area (that is, facilitates the existence of such an area). 2011 IL App (2d) 100388 at ¶18, 953 N.E.2d at 1016.

In Lake County Board of Review v. Property Tax Appeal Board, 2013 IL App (2d) 120429, 989 N.E.2d 745, 371 Ill.Dec. 155, (hereinafter "Onwentsia II") the court again vacated the decision of the Property Tax Appeal Board and remanded the matter with directions. In Onwentsia II the court held the Property Tax Appeal Board's application of the relevant portion of section 10-155 of the Code was overbroad. In construing section 10-155(d) of the Code in Onwentsia II the court stated:

Nothing in the statute indicates that the legislature intended to create an enormous tax shelter whereby any parcel of property associated in some way with a golf course would escape taxation. Moreover, it is axiomatic that we are to construe tax exemptions "narrowly and strictly in favor of taxation" (citation omitted) and the burden to prove a tax exemption lies with the taxpayer (citation omitted). **Accordingly, we hold that "conserve" as it is used in section 10-155 of the Code (citation omitted) must be construed narrowly, and in turn, there must be some substantial nexus between the land for which the exemption is claimed and the landscaped area it is claimed to conserve. That is to say, the improvement in question must directly relate to and thus facilitate the existence of the golf course.** Onwentsia II, 2013 IL App 2d 120429 ¶10 (Emphasis added).

The court in Onwentsia II asserted that the determination of whether or not a property is to receive the preferential open space assessment should be viewed similarly as property claiming to be exempt. As stated by the Supreme Court of Illinois in Follett's Illinois Book and Supply Store, Inc. v. Isaacs, 27 Ill.2d 600, 190 N.E.2d 324 (1963):

Statutes exempting property from taxation must be strictly construed and cannot be extended by judicial interpretation. In determining whether or not property is included within the scope of a tax exemption all facts are to be construed and all debatable questions resolved in favor of taxation. Every presumption is against the intention of the State to exempt property from taxation. (Citation omitted). 27 Ill.2d at 606.

The burden in this appeal was on the appellant to prove the improvements in question directly related to and facilitated the existence of the golf course. In this appeal the appellant provided no

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witnesses to testify about the clubhouse and the parking lot on PIN 05-06-405-014 and their connection with the golf course. The Board finds the appellant failed to demonstrate with any probative evidence and testimony that there was some substantial nexus between the land for which the exemption was claimed and the landscaped area it was claimed to conserve. Based on this record the Board finds the clubhouse and parking lot on PIN 05-06-405-014 do not qualify for the preferential open space assessment.²

The Board finds the appellant submitted no other evidence and made no other argument challenging the assessment of the subject property. The Property Tax Appeal Board also finds problematic the fact that the property record cards for each PIN in this record do not accurately reflect the assessments attributed to the buildings present on the respective PINs under appeal. Instead, it appears the assessment for the improvements located on PIN 05-06-209-018 are included in the improvement assessment for PIN 05-06-405-014. On this record, the Property Tax Appeal Board is further unable to discern the improvement assessments that are to be associated with the buildings actually located on the respective PINs. This omission in the assessment mechanics, however, is not relevant to a final determination given the record evidence presented by the appellant.

In conclusion, the Board finds reductions in the assessments of the subject parcels is not justified.

² Similarly, with respect to the buildings located on PIN 05-06-209-018 notwithstanding the fact no open space application was filed with the chief county assessment officer, the appellant did not demonstrate with any probative evidence and testimony that there was some substantial nexus between the land for which the exemption was claimed and the landscaped area it was claimed to conserve.

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APPELLANT:	Mirko Srdanovich
DOCKET NUMBER:	12-01557.001-C-1
DATE DECIDED:	June, 2015
COUNTY:	Kane
RESULT:	No Change

The subject property consists of a three-story six-unit apartment building of brick exterior construction with 5,103 square feet of building area. The building was constructed in 1968 and has a concrete slab foundation. The property has a 12,500 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information on two comparable sales of six-unit apartment buildings that sold in September 2011 and April 2012 for prices of \$320,000 and \$330,000 or \$53,333 and \$55,000 per apartment unit, including land. Based on this evidence and argument in a brief, the appellant requested a total assessment of \$110,000 which would reflect a market value of approximately \$330,000 or \$55,000 per apartment unit, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$129,302. The subject's assessment reflects a market value of \$387,712 or \$64,619 per apartment unit, land included, when using the 2012 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum from the Elgin Township Assessor. The assessor asserted that appellant's sale #1 was on the market for 25 days, "considerably lower than typical." The assessor also contended that appellant's sale #2, according to the listing agent, involved an owner in poor health, who was behind on property taxes, with two tenants in the building when listed and the seller provided financing in the transaction.

In support of its contention of the correct assessment the board of review submitted information on six comparable sales of 5-unit to 12-unit apartment buildings that sold between November 2010 and March 2012 for prices ranging from \$389,000 to \$835,000 or from \$64,000 to \$87,000 per apartment unit, including land. Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellant contends 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 is not warranted.

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The parties submitted a total of eight comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given little weight to board of review comparables #5 and #6 as these comparables are much larger than the subject having 12-units per building and comparable #6 also sold in 2010, a date much less proximate in time to the valuation date at issue of January 1, 2012. The Board has also given reduced weight to board of review comparables #1 and #2 as these buildings each have garage features not present at the subject property.

In addition, the Board has given little weight to the assessor's arguments concerning reasons to give the appellant's comparables less weight. For appellant's comparable #1, the applicable Multiple Listing Service data sheet submitted by the board of review reflects an original asking price of \$350,000 prior to the sale for \$320,000. Remarks on this document also include that the agent was the son-in-law to the owner. As to appellant's comparable #2, the Multiple Listing Service data sheet submitted by the board of review depicts that the property was originally listed for \$425,000 with a subsequent price reduction to \$375,000 prior to the sale for \$330,000. The document also depicts that the property was on the market for 152 days and the remarks included "possible seller financing." As advertised, seller financing was an available option to any interested buyer.

The Board finds the best evidence of market value to be the appellant's comparable sales along with board of review comparable sales #3 and #4. These four most similar comparables sold between February 2011 and February 2012 for prices ranging from \$320,000 to \$505,000 or from \$53,333 to \$84,167 per apartment unit, including land. The subject's assessment reflects a market value of \$387,712 or \$64,619 per apartment unit, including land, which is within the range established by the best comparable sales in this record and well-supported by board of review comparable #4 that is nearly identical to the subject in age, exterior construction, size and features which sold in February 2012 for \$64,833 per apartment unit, including land.

Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	Anoosh Varda
DOCKET NUMBER:	08-29772.001-C-1 thru 08-29772.002-C-1
DATE DECIDED:	March, 2015
COUNTY:	Cook
RESULT:	Reduction

The subject property consists of two parcels of land totaling 7,493 square feet of land and improved with a one-year old, multi-story building containing 13,665 square feet of building area. The property is located in West Chicago Township, Cook County. The property is a class 5 property under the Cook County Real Property Assessment Classification Ordinance. The appellant contends overvaluation as the basis of the appeal.

The appellant first contends the subject property is a mixed-use building and should not be classified as a commercial property assessed at 25%, but should be classified as a class 2, mixed-use property assessed at 10%.

The appellant submitted an appraisal with a valuation date of January 1, 2009 valuing the property at \$1,075,000. The appraisal describes the property as a three-story, mixed-use building with the first two-stories used as a daycare center and the third floor containing a studio apartment. The appraisal included a copy of the lease agreement for the apartment. The appraisal failed to include any photographs, either interior or exterior, for the subject.

The appraisal discloses a sale of the subject's site in October 2006 for \$800,000. The appraiser opines that this sale does not reflect actual market value because the sale occurred prior to the downward turn of the market, the sale did not include real estate professionals, and the buyer paid a premium to keep his business located near clients. Therefore, the appraiser discounts the sale.

The appraisal undertook only the income and sales comparison approaches to value at the request of the client. In reconciling the approaches to value, the appraiser found the sales comparison approach most reliable and gave major emphasis to the income approach to determine a final estimate of value of \$1,075,000 as of January 1, 2009. Based on this evidence, the appellant requested a \$99,999 reduction to an assessment of \$100,043.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$200,042 was disclosed. This assessment reflects a fair market value of \$526,426 when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5a property is applied.

In support of the subject's assessment, the board's analysis stated that the subject was purchased by the appellant in October 2006 for a price of \$800,000. In support of this sale, the board of review submitted copies of the deed and the recorder of deed's website printout.

The board of review describes the subject as a mixed-use commercial building with a studio apartment. The board of review included a black and white photograph of the exterior of the subject. It also presented descriptions and sales information on a total of six properties.

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Conclusion of Law

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

As to the subject's classification, the Board finds that both appellant and the board of review acknowledge that the subject is a mixed-use building with an apartment included. Therefore, the Board finds the subject should be assessed as a class 2 mixed-use property.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The subject's assessment reflects a market value above the best evidence of market value in the record. The Board finds the subject property had a market value of \$1,075,000 as of the assessment date at issue. Since market value has been determined the Illinois Department of Revenue's three-year median level of assessment for class 2, residential property of 9.60% for tax year 2008 will apply and a reduction is warranted.

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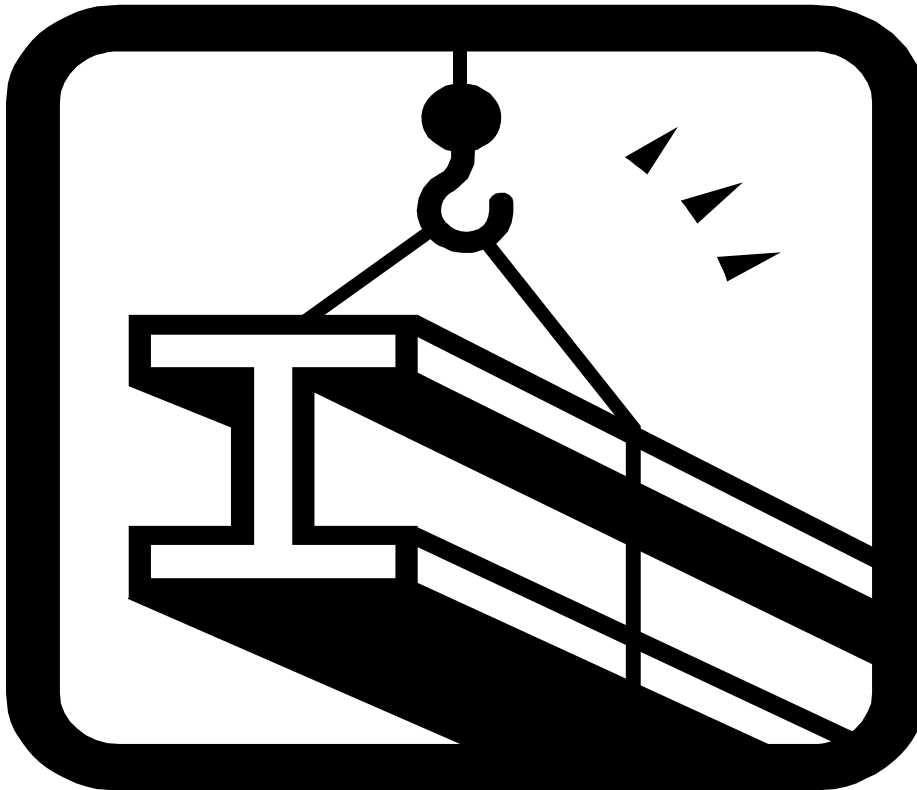
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PROPERTY TAX APPEAL BOARD
SYNOPSIS OF REPRESENTATIVE CASES
2015 INDUSTRIAL DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
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APPELLANT:	<u>AT&T Services, Inc.</u>
DOCKET NUMBER:	<u>09-27502.001-C-2 thru 09-27502.003-C-2</u>
DATE DECIDED:	<u>November, 2015</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

(Please note, the Property Tax Appeal Board recognizes this case was filed as a commercial appeal, however the evidence and context of this decision primarily relates to industrial property valuation issues.)

The subject property consists of three, irregular-shaped parcels of land totaling 36,394 square feet and improved with a 49-year old, three-story, masonry, industrial building containing 43,134 square feet of building area. The property is located in West Chicago Township, Cook County and is a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of the market value argument, the appellant submitted an appraisal undertaken by Terrence McCormick of McCormick & Wagner, LLC. McCormick was the appellant's only witness. McCormick testified he has owned McCormick & Wagner since 2000 and started appraising property in 1979. He testified he is licensed in Illinois and holds the MAI designation from the Appraisal Institute. He testified he has appeared before courts and tribunals as an expert witness including before the Illinois Property Tax Appeal Board. Mr. McCormick was accepted as an expert in property valuation without objection from the board of review.

The appraisal indicated the subject has an estimated market value of \$660,000 as of January 1, 2009. The appraisal report utilized the cost and sales comparison approaches to value to estimate the market value for the subject property. McCormick testified he inspected the subject in December 2006 and January 2010. He testified he has appraised this property four times and is very familiar with the building.

McCormick described the real estate market as of January 2009 and its impact on values. He then described the subject property and compared its characteristics to other industrial buildings. McCormick testified as to the subject's neighborhood and opined that the market in that area was stagnant to declining in 2009. The appraiser found the subject's highest and best use is its continued use as an industrial building.

McCormick testified he considered all three approaches to value and performed the cost and sale comparison approaches. He testified he omitted the income approach because the subject is an older, multiple-story, single-user, industrial building located in a less desirable location where the property would more likely be purchased rather than leased.

Under the cost approach, McCormick testified he analyzed six land sales all located on the south side of Chicago. He acknowledged that sales #1 through #5 were substantially smaller than the subject and that sale #6 was the only property he could find that was larger than the subject.

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These properties sold from March 2005 to January 2008 for prices ranging from \$4.85 to \$8.51 per square foot. McCormick testified to the adjustments made to the comparables for pertinent factors. He opined a land value for the subject of \$4.00 per square foot or \$145,000, rounded.

Using the Automated Marshall Valuation Service, McCormick estimated a reproduction cost new for the subject of \$5,273,437. McCormick used the market extraction method to estimate depreciation at 90%. McCormick testified as to how he developed the market extraction rate. He estimated the total depreciated value of the improvement at \$527,344 and added the land value back in for a total estimated value under the cost approach of \$670,000.

Under the sales comparison approach, the appraiser analyzed the sales of six properties. McCormick testified as to the location of these comparables. He testified he inspected the comparable properties. The properties range in effective age from 47 to 84 years and in size from 38,000 to 100,000 square feet of above grade building area. The comparables sold from August 2004 to December 2008 for prices ranging from \$4.50 to \$21.43 per square foot of above grade building area, including land. McCormick testified he made adjustments to the comparables for pertinent factors. He stated these adjustments were noted within the appraisal. McCormick testified he estimated the above grade building area at \$12.00 per square foot and the below grade building area at \$10.00 per square foot for a total estimated value under the sales comparison approach of \$660,000.

In reconciling the two approaches to value, McCormick testified he gave most weight to the sales comparison approach and that the cost approach lends support to the indicated value by the sales comparison approach to arrive at a final estimate of value for the subject as of January 1, 2009 of \$660,000.

Under cross-examination, McCormick testified that he did not include the income approach to value because there were no rental comparables of similar buildings to analyze. He testified that sale comparable #4 is a multi-tenant building that does produce income, but that he looked for single-users that leased an entire building. McCormick reiterated that he found no other rental comparables.

McCormick testified as to how he analyzed the data in the sales comparison approach. He testified to the factors used in making adjustments to the comparables. McCormick acknowledged that he was not aware of the quality of the comparables' basements because he did not access these parts of the comparables.

The board of review presented *BOR Exhibit #1*, a copy of the quit claim deed for sale comparable #6. McCormick testified that he was not aware of this transaction and opined that quit claim deeds are not always in the data sources. He testified that he would have to research a quit claim deed to determine if it was a sale.

On redirect, McCormick testified that the signatures for the grantee and grantor on *BOR Exhibit #1* appear to be the same person. He testified that quit claim deeds are used not just for a sale of the property, but to change the ownership record. He testified that there are no transfer stamps affixed to the deed and opined that there is no knowledge as to what the consideration was without these stamps.

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The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment was \$291,002; yielding a market value of \$1,164,008 or \$26.98 per square foot of building area, including land, using the Cook County Real Property Classification Ordinance for Class 5 property of 25%.

The board also submitted raw sales information on five properties suggested as comparable. The properties range in size from 30,259 to 52,100 square feet of building area and sold for prices ranging from \$27.61 to \$44.79 per square foot of building area, including land. In addition, the board of review's memorandum discloses that the data is not intended to be an appraisal or estimate of value and should not be construed as such. In addition, it discloses that the information is assumed factual, accurate, and reliable, but has not been verified and does not warrant its accuracy.

Conclusion of Law

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the PTAB concludes that the appellant has met this burden and that a reduction is warranted.

In determining the fair market value of the subject property, the Board finds the best evidence to be the appellant's appraisal and testimony. The appellant's appraiser utilized the cost and sales comparison approaches to value in determining the subject's market value. The witness credibly testified that the income approach would not be appropriate for the subject property. The Board finds the appraisal and testimony to be persuasive for the appraiser: has experience in appraising; personally inspected the subject property and reviewed the property's history; and used similar properties in the sales comparison approach while providing sufficient detail regarding each sale as well as adjustments that were necessary. The Board gives little weight to the board of review's comparables as the information provided was raw sales data.

Therefore, the Board finds the subject had a market value of \$660,000 for the 2009 assessment year. Since the market value of this parcel has been established, the Cook County Real Property Assessment Classification Ordinance for Class 5 property of 25% will apply. In applying this level of assessment to the subject, the total assessed value is \$165,000 while the subject's current total assessed value is above this amount. Therefore, the Board finds that a reduction is warranted.

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APPELLANT:	Ballard Properties Group, LLC
DOCKET NUMBER:	13-03264.001-I-1
DATE DECIDED:	November, 2015
COUNTY:	Winnebago
RESULT:	No Change

The subject property¹ consists of a one-story brick and concrete block multi-tenant industrial building that contains 73,513 square feet of building area. The building was constructed in 1973 and features approximately 15,000 square feet of office space. The subject property has a wall height of 20 feet. The total land area of the subject with all four parcels consists of a 185,108 square foot site with a land-to-building ratio of 7.89:1. The subject property is located in Rockford, Cherry Valley Township, Winnebago County.

The appellant contends overvaluation as the basis of the appeal. As to the subject property the appellant reports the property was designed to have four separate tenant spaces for use as light industrial space. As of the presentation of the brief, the property has two tenants which occupy the entire building.

In support of the overvaluation argument, the appellant submitted comparable sales set forth on Exhibits A and B along with a brief explaining the analysis of the sales data.

Exhibit A consists of a spreadsheet of sales of manufacturing properties in Cherry Valley Township which sold between January 1, 2011 and July 31, 2013. The properties are located within a mile of the subject property. The 18 comparables are described as one-story structures that were built between 1969 and 1991. The parcels range in size from 15,733 to 216,635 square feet of land area. The buildings range in size from 5,000 to 38,462 square feet of building area with wall heights ranging from 12 feet to 24 feet. The properties have land-to-building ratios ranging from 2.19:1 to 8.7:1. The sales occurred between April 2011 and July 2012 for prices ranging from \$137,500 to \$750,000 or from \$14.52 to \$55.56 per square foot of building area, including land.

Exhibit B consists of a spreadsheet of seven sales of manufacturing buildings, four of which were set forth in Exhibit A. The three new comparable sales are located in either Harlem or Rockford Townships. The three new sales comparables consist of one-story buildings that were built between 1968 and 1985. These three buildings range in size from 42,327 to 98,840 square feet of building area with wall heights ranging from 16 feet to 20 feet. These three properties sold between February 2011 and May 2013 for prices ranging from \$275,000 to \$2,070,000 or from \$5.41 to \$20.94 per square foot of building area, including land.

¹ The appellant contends that the subject property consists of four parcels with the subject building being located partially on each parcel, but the assessing officials have listed the entire improvement on one parcel. Only parcel 16-04-102-006 with the entire building assessment was appealed in this matter. The subject property record card indicates the associated parcels 007, 008 and 009 have land values only. Neither party presented those land assessments, thus the record is unclear as to what the entire market value of the subject property would be with the inclusion of all four parcels.

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As part of Exhibit B, the appellant reports both the sale price per square foot of all seven of the selected comparables, including land, and also sets forth an analysis where "the assessor's land value for the year of the sale" has been deducted from the sale price to provide a "net building price per square foot" of the comparables. The appellant in the brief contended that this analysis "reduces the effect of differing land to value ratios on price which can distort the overall price per square foot relative to the subject property." As part of the brief, the appellant also asserted that "Due to the subject building's large size and the market's preference for the more numerous smaller industrial buildings, the median sale price shown on Exhibit B is reduced as larger buildings sell for less per square foot than do smaller ones. A further consideration is the subject's older construction date." The seven comparable sales occurred between February 2011 and July 2013 for prices ranging from \$275,000 to \$2,070,000 or from \$5.41 to \$20.94 per square foot of building area, including land, or from \$3.57 to \$17.80 per square foot of building area, without land.

Based on this evidence and analysis, the appellant requested a total assessment reflective of a market value of \$1,200,000 or approximately \$16.32 per square foot of building area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject parcel of \$474,607. The subject's assessment reflects a market value of \$1,431,695 or \$19.48 per square foot of building area, land included for the subject parcel, when using the 2013 three year average median level of assessment for Winnebago County of 33.15% as determined by the Illinois Department of Revenue.

In response to the appellant's appeal, the board of review also utilized appellant's comparables #1, #3, #5 and #7 from Exhibit B. As to appellant's comparable #2, the board of review contends this was an REO sale and is not typical given the other available sales; and appellant's sales #4 and #6 are both dissimilar in building size and are not appropriate comparables.

In support of its contention of the correct assessment the board of review submitted information on seven comparable sales, four of which were also presented by the appellant. The assessing officials contend that comparable buildings that range in size from 30,000 to 100,000 square feet are suitable comparables. The assessing officials also stated, "We agree with the appellant regarding the fact that the unit of comparison should be the building price per sqft due to the difference in land size." The seven comparable buildings range in size from 31,557 to 98,840 square feet of building area with ceiling heights ranging from 14 feet to 22 feet. The properties sold between May 2010 and July 2013 for prices ranging from \$550,000 to \$2,070,000 or from \$13.58 to \$35.39 per square foot of building area, including land. According to the board of review, the subject has a building value of \$16.66 per square foot and these comparables sold for prices ranging from \$13.00 to \$32.30 per square foot of building area, without land.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

In written rebuttal, appellant argued that board of review comparable sale #5 which occurred in 2010 was a dated sale, too remote in time to be relevant to the subject's estimated market value as of the assessment date. In addition, the appellant contended this sale price was an "outlier."

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As to board of review sale #6, the building is 27 years newer than the subject and therefore is dissimilar to the subject. Removing these two sales, the appellant contends the median sale price is \$19.50 per square foot, land and building, and an implied improvement value of \$16.64 per square foot.

Conclusion of Law

The appellant contends 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 is not warranted.

The Property Tax Appeal Board finds the best evidence of market value to be sales #1 along with #3 through #7 submitted by the appellant in Exhibit B and sales #1 through #4 along with sale #7 submitted by the board of review. Board of review sales #2, #3, #4 and #7 were the same as appellant's sales #5, #1, #7 and #3, respectively. These comparables were improved with buildings ranging in size from 23,088 to 98,840 square feet of building area, wall heights ranging from 14 feet to 24 feet and develop a range of prices from \$400,000 to \$2,070,000 or from \$13.58 to \$26.94 per square foot of building area, including land.

Less weight was given to appellant's sale #2 as the appellant indicated this property was Real Estate Owned (REO) and the sale price appears to be an outlier at \$5.41 per square foot of building area, including land. Less weight was also given to board of review sale #5 as this property sold in May 2010, not as proximate in time to the assessment date as the best sales herein. Less weight was given to board of review sale #6 due to the difference from the subject in age.

The Board also gave little weight to the appellant's and board of review's analysis abstracting a land value from the sales price for each comparable based on the land assessment for the year of the sale. The Board finds there was no market data to support these calculations. The better approach would have been to provide comparable land sales to establish the market value of the land for each improved comparable at the time the property sold. This estimated land value could then be deducted from the total sales price to arrive at a building residual value for each comparable. The Board finds the analysis performed by deducting the value reflected by the land assessment in order to establish the portion of the total sales price attributable to the building for each comparable was not credible or supported on the record.

Based upon the evidence in the record, the subject's assessment reflects a market value of \$1,431,695 or \$19.48 per square foot of building area, including land, which is within the range established by the best comparable sales in this record. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	Frigel North American, Inc.
DOCKET NUMBER:	12-00933.001-I-1
DATE DECIDED:	April, 2015
COUNTY:	Kane
RESULT:	No Change

The subject property is improved with a one-story industrial building of concrete construction with 40,090 square feet of total building area. The building is divided into two units and was constructed in 2007. Features of the building include a reinforced concrete slab foundation, 24 feet ceiling heights to the metal trusses in the warehouse area, six loading doors, a seven-ton crane in the unit occupied by the owner, air conditioning in the office area, men's and women's restrooms in each of the units and the building is fully sprinklered. The property has a 98,050 square foot or 2.25 acre site resulting in a land to building ratio of 2.45:1. The site has 28,100 square feet of asphalt paving and 23-surface parking spaces. The property also has 2,800 square feet of concrete and 25,300 square feet of landscaping improvements. The property is located at 150 Prairie Lake Road, East Dundee, Dundee Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$1,600,000 as of January 1, 2011. The appraisal was prepared by John Stephen O'Dwyer, Certified General Real Estate Appraiser, and Ibi Cole, Associate Real Estate Appraiser, of JSO Valuation Group, Ltd. In estimating the market value of the subject property the appraisers developed the income approach to value and the sales comparison approach to value.

In the report the appraisers described the subject building as being in good condition and being adequately maintained. They determined the subject building had an effective age of 4 years. They also determined the highest and best use as improved to be the current industrial use of the property. The purpose of the appraisal was to estimate the market value of the fee simple interest of the property as of January 1, 2011. The appraisers also indicated that the owner occupied 20,138 square feet or 50.23% of the subject building and Fox Valley Containers, Inc. occupied 19,952 square feet or 49.77% of the building. The appraisers further reported on page 18 of the report the subject property was purchased by the appellant in 2008 for a price of \$3,800,000.

Under the income approach to value the appraisers identified four rental comparables located in East Dundee and Elgin. The rental comparables were constructed from 2001 to 2008 and ranged in size from 32,300 to 176,799 square feet of building area with available space ranging in size from 10,223 to 41,171 square feet. The comparables had ceiling heights ranging from 20 to 30 feet. The appraisers indicated the comparables had asking rents on a gross basis ranging from \$6.50 to \$8.53 per square foot of building area on a gross basis and from \$4.25 to \$5.45 per square foot on a net basis. Making quantitative adjustments to the comparables for being listings and for concessions resulted in effective rents ranging from \$4.04 to \$5.18 per square foot on a triple net basis. Based on these rental comparables the appraisers estimated the subject property had a market rent of \$4.50 per square foot on a triple net basis. In the analysis the appraisers also referenced that 19,952 square feet of the subject property was leased to Fox Valley Containers,

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Inc. under a lease that commenced in March 2011 for a term of 62 months.¹ The subject property was rented for months 3 through 12 for \$7,482 per month or \$4.50 per square foot of building area. The appraisers estimated the subject property had a potential gross income (PGI) of \$180,405.

The appraisers next estimated the subject property would have vacancy and collection loss of 7.5% or \$13,530 based on location, size and condition. Deducting vacancy and collection loss from PGI resulted in an effective gross income (EGI) of \$166,875.

The appraisers estimated expenses based on industry standards. Real estate taxes were based on the ownership's expense while the subject is vacant and calculated to be \$1,860 per year. In the body of the report insurance was estimated to be \$.35 per square foot and was calculated based on the ownership's expense while vacant or \$702 per year. However, in the stabilized expenses set forth in Table #7 an insurance deduction of \$1,052 was made, which appears to be in error. Legal and professional fees were estimated to be \$1,500 per year; management fees were based on 4% of EGI or \$6,675; and reserves was estimated to be \$2,503.² Deducting expenses of \$14,520 from the EGI resulted in a net income of \$152,354.

The appraisers estimated the subject property would have a capitalization rate of 9.5% based on a review of investment surveys. The surveys referenced in the appraisal were through the 2nd quarter of 2011. The appraisers described the subject property as a Class C industrial building that would have a capitalization rate at the upper end of the range reported by the referenced investor survey because the survey is for only Class A and Class B industrial well-performing properties in the national economy. Capitalizing the subject's estimated net income resulted in an estimated market value under the income approach of \$1,600,000.

The next approach to value developed by the appraisers was the sales comparison approach using four comparable sales and one listing. The comparables were improved with four, one-story industrial buildings and one part one-story and part two-story industrial building that ranged in size from 20,000 to 42,411 square feet of building area. The comparables were located in Elgin, Batavia and St. Charles. The comparable sales were constructed from 1988 to 1997 and the listing was built in 2004. These properties had sites ranging in size from 29,969 to 120,000 square feet resulting in land to building ratios from 1.50:1 to 2.83:1. The sales occurred from December 2010 to March 2011 for prices ranging from \$915,000 to \$1,800,000 or from \$27.81 to \$42.44 per square foot of building area. The listing had a price of \$950,000 or \$47.50 per square foot of building area. Based on these sales the appraisers estimated the subject property had an indicated value of \$40.00 per square foot of building area or \$1,600,000, rounded.

In reconciling the two approaches to value the appraisers gave most credence to the income approach and estimated the property had a market value of \$1,600,000 as of January 1, 2011.

¹ In reviewing the lease data set forth in the appraisal the appraisers indicated a lease date of October 6, 1997 and a date of possession of October 6, 1997. These appear to be errors as the subject building was not constructed until 2007.

² The appraisers indicated on page 63 of the report that reserves were based on 1% of EGI; however, the reserves were calculated based on 1.5% of EGI.

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The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$602,292. The subject's assessment reflects a market value of \$1,805,973 or \$45.05 per square foot of building area, land included, when using the 2012 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on six comparable sales improved with industrial buildings that ranged in size from 15,712 to 126,252 square feet of building area. The comparables were located in East Dundee and Elgin. Three of the sales were located along the same street and within two blocks of the subject property. The sales occurred from October 2011 to December 2012 for prices ranging from \$725,000 to \$4,787,623 or from \$36.86 to \$50.50 per square foot of building area, including land.

The board of review also submitted evidence prepared by Michael Bielak, Dundee Township Assessor. The assessor provided information on four comparable sales located in Cary and Elgin. The comparables were improved with one manufacturing building, a distribution building and two warehouse buildings that ranged in size from 33,705 to 41,007 square feet of building area and were constructed from 1980 to 2006. The sales occurred from April 2009 to November 2011 for prices ranging from \$1,382,500 to \$2,260,000 or from \$41.02 to \$55.11 per square foot of building area. The assessor was of the opinion these sales indicated the subject had a market value of \$50.00 per square foot of building area or \$2,004,500.

The assessor also developed an income approach to value using a market rent of \$5.21 per square foot of building area to arrive at a GPI of \$208,869. The assessor indicated the subject's actual rent was \$5.21 per square foot but provided no documentation to support this assertion. The assessor used a vacancy and collection loss of 10% or \$20,890, which was deducted from the PGI to arrive at an EGI of \$187,980. The assessor next deducted 15% of EGI or \$28,200 for expenses to arrive at a net income of \$159,780. The assessor then used a capitalization rate of 8.50% to capitalize the net income into an estimated market value of \$1,879,760 under the income approach.

Other evidence presented by the assessor included a building permit application for the subject dated November 1, 2008 and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration documenting the sale of the subject property in August 2008 for a price of \$3,380,000.

Conclusion of Law

The appellant contends 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 is not warranted.

The appellant submitted an appraisal estimating the subject had a market value of \$1,600,000 as of January 1, 2011, one year prior to the assessment date at issue. There was nothing in the

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record submitted by the appellant that established the appraisers were of the opinion the estimated market value was the same as of January 1, 2012.

The appellant's appraisers used both the income approach and the sales comparison approach in estimating the market value of the subject property. With respect to the income approach, the data used by the appraisers focused on 2010 and the first quarter of 2011. The appraisal was not updated to reflect market conditions during 2011 or perhaps the first quarter of 2012, which would be more probative in estimating the market value under the income approach as of January 1, 2012. As a result less weight was given the estimated value under the income approach developed in the appellant's appraisal.

The assessor developed an income approach in which he estimated the subject had a market rent of \$5.21 per square foot of building area. There was no support in the record for this estimate of market rent and this estimate seemed to be refuted by the data in the appellant's appraisal outlining the subject's lease terms. Furthermore, there was no market support for the assessor's estimate of vacancy and collection loss and expenses. Therefore, little weight was given this estimate of value.

In this appeal the Board placed most emphasis on the comparable sales presented by the parties. In the absence of market value set by a contemporaneous arm's length sale, the sales comparison approach is the preferred method to value property and should be used when market data are available. Cook County Board of Review v. Property Tax Appeal Board, 384 Ill.App.3d 472, 480-481 (1st Dist. 2008). The Board finds the best sales in the appraisal to be comparables #1 and #2 as these properties sold in 2011 and were relatively similar to the subject property in location and building size, albeit the buildings were 10 and 18 years older than the subject. These two comparables sold for prices of \$1,450,000 and \$1,800,000 or \$35.36 and \$42.44 per square foot of building area, land included, respectively. In the report the appraisers noted these two comparables were inferior to the subject in age and condition and would require upward adjustments. In its submission the board of review had two sales located along the same street as the subject at 140 Prairie Lake Road and 125 Prairie Lake Road in East Dundee that were relatively similar to the subject in size with 33,510 and 32,300 square feet of building area, respectively. These two properties sold in December 2012 and September 2013 for prices of \$1,825,000 and \$1,425,000 or \$54.46 and \$44.12 per square foot of building area, including land, respectively. The Board recognizes that less weight should be given the sale that occurred in September 2013 as that transpired 21 months after the assessment date at issue but the location is excellent with reference to the subject property. The board of review and the township assessor both referenced a sale at 450 N. McLean Blvd., Elgin, improved with a 35,150 square foot Class C warehouse built in 1988 that sold in November 2011 for a price of \$1,775,000 or \$50.50 per square foot of building area, including land. The final sale considered by the Property Tax Appeal Board was referenced by the assessor as comparable #4 located at 1190 Cambridge Dr., Elgin improved with a Class B warehouse with 41,007 square feet of building area constructed in 1997 that sold in June 2011 for a price of \$2,260,000 or \$55.11 per square foot of building area, including land. The data sheet provided by the assessor indicated this property previously sold in April 2011 for a price of \$1,450,000 or \$35.36 per square foot of building area, including land. This was the same sale as appraisal sale #1. In summary the Board finds the most probative sales in this record sold for prices ranging from \$1,425,000 to \$2,260,000 or from \$35.36 to \$55.11 per square foot of building area, including land. The

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subject's assessment reflects a market value of \$1,805,973 or \$45.05 per square foot of building area, including land, which is within the range established by these comparables. The subject's assessment is well supported given the fact that the record indicated it was newer than each comparable but that comparable located at 140 Prairie Lake Road for which no age was reported. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	<u>Glas Properties, Inc.</u>
DOCKET NUMBER:	<u>10-25632.001-I-1</u>
DATE DECIDED:	<u>November, 2015</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>No Change</u>

The subject property consists of a 14,145 square foot parcel of land improved with a 50-year old, one-story, masonry, industrial building containing approximately 8,260 square feet of building area. The property is located in Niles Township, Cook County. The property is a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$430,000 or \$52.06 per square foot of building area as of January 1, 2010. The appraisal discloses that the subject sold in January 2010 for \$560,000 or \$67.80 per square foot of building area, but opined that this amount was not at market levels and that the appellant paid a premium for the location. The appraiser opines that the buyer was leasing two buildings in the neighborhood and needed to consolidate into one building which led to the seller taking advantage of the buyer. Therefore, the appraiser did not consider the sale in estimating the subject's market value.

The appraisal undertook only the sales comparison approach to value at the request of the client. The appraisal discloses that the scope of work is less than could otherwise be performed in the context of the assignment. The sales comparison approach analyzed four comparables that sold between November 2007 and June 2009 for prices that ranged from \$45.60 to \$52.64 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$136,803 was disclosed. This assessment reflects a fair market value of \$547,212 or \$66.25 per square foot of building area when the Cook County Real Property Assessment Classification Ordinance level of assessments of 25% for Class 5 property is applied.

In support of the subject's assessment, the board of review presented descriptions and sales information on a total of five properties that sold between February 2007 and June 2009 for prices ranging from \$56.00 to \$94.74 per square foot of building area, land included. The board of review's sales comparables #1 and #2 are also used by the appellant's appraiser as sale comparables #4 and #1.

Conclusion of Law

The appellant contends 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 has not met this burden of proof and a reduction in the subject's assessment is not warranted.

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The Board thoroughly considered the parties' evidence. The Board gives diminished weight to the appraisal because it lacks data to further explain why the subject's sale was not given any weight in establishing the subject's market value. The Board finds unpersuasive without further information the appraiser's opinion that the subject's purchase price was not at market value. The Board also finds unpersuasive the appraiser's opinion that the appellant paid a premium because he wanted to consolidate his business into one location. Moreover, the omissions of the cost and income approaches to value were at the request of the client make the appraisal less reliable than an appraisal with all three approaches. For these reasons, the Board gives the adjustments and the conclusion of value within the appraisal no weight.

The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989). Therefore, the Board will consider the raw sales data from both parties along with the subject's sale information.

The parties submitted seven sale comparables along with the subject's 2010 sale information. The Board finds the appellant's comparables #1, #2, and #4 and the board of review's sale comparables #1, #2, and #3 similar to the subject and most probative in determining the subject's market value as of the lien date. These sales occurred for prices ranging from \$45.60 to \$94.46 per square foot of building area. The subject sold in January 2010 for \$67.80 per square foot of building area.

The subject's current assessment reflects a market value of \$66.25 per square foot of building area which is within the range established by the sales comparables and lower than the subject's sale price. After considering the adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's assessment is supported and a reduction is not warranted.

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APPELLANT:	<u>Kip Hennelly</u>
DOCKET NUMBER:	<u>12-04227.001-I-1 thru 12-04227.006-I-1</u>
DATE DECIDED:	<u>September, 2015</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>Reduction</u>

The subject property consists of a 1.07-acre or 46,825 square foot site consisting of six adjacent parcels of vacant industrial land. The property is located in Bensenville, Addison Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on three vacant land comparables located in Bensenville, Addison and Roselle. The comparable parcels range in size from 24,999 to 56,336 square feet of land area. Comparable #1 is a listing with an asking price of \$325,000 or \$7.46 per square foot of land area and comparables #2 and #3 sold in April 2011 and June 2009, respectively, for prices of \$127,000 and \$400,000 or for \$5.08 and \$7.10 per square foot of land area.

Based on this evidence, the appellant requested a total assessment of \$102,177 for the subject parcels which would reflect a total market value of approximately \$306,531 or \$6.55 per square foot of land area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the six subject parcels of \$123,320. The subject's assessment reflects a market value of \$370,108 or \$7.90 per square foot of land area when using the 2012 three year average median level of assessment for DuPage County of 33.32% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on five comparable sales located in Bensenville, Addison and Itasca. Board of review comparable #1 is the same property as appellant's comparable #2. The parcels range in size from 25,000 to 428,195 square feet of land area. The properties sold between September 2010 and July 2013 for prices ranging from \$127,000 to \$4,852,103 or from \$5.08 to \$11.33 per square foot of land area.

Based on this evidence wherein the assessor asserted the subject's square foot value was "fair and equitable," the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

Conclusion of Law

The appellant contends 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

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construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The parties submitted a total of seven comparable sales, with one common property between the parties, in support of their respective positions before the Property Tax Appeal Board. The Board has given little weight to board of review comparables #4 and #5 as these properties are both substantially larger than the subject property with land areas of 180,108 and 428,195 square feet, respectively, as compared to the subject property with 46,825 square feet of land area.

The Board finds the best evidence of market value to be the appellant's comparables along with board of review comparable sales #1, #2 and #3. These most similar comparables sold or had an asking price ranging from \$127,000 to \$400,000 or from \$5.08 to \$7.46 per square foot of land area. The subject's assessment reflects a market value of \$370,108 or \$7.90 per square foot of land area which is above the range established by the best comparables in this record on a per-square-foot basis. After considering adjustments and the differences in both parties' most similar comparables when compared to the subject property, the Board finds a reduction in the subject's assessment is justified.

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APPELLANT:	Rock River Industrial LLC
DOCKET NUMBER:	13-02816.001-I-1
DATE DECIDED:	November, 2015
COUNTY:	Winnebago
RESULT:	Reduction

The subject property is improved with a warehouse that contains 155,900 square feet of ground floor area and 9,000 square feet of second floor area. The building has 154,700 square feet of warehouse space and 1,200 square feet of office area. The building is of frame and brick construction. The property has a site of 247,856 square feet and is located in Rockford, Rockford Township, Winnebago County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on September 13, 2013 for a price of \$50,000. The appellant completed Section IV – Recent Sale Data of the appeal disclosing the seller was Ballard Properties II, LLC and the parties were not related. The appellant further indicated the property was sold through a Realtor (Hunter Realty) and had been advertised for 4 years in the local newspaper, the Multiple Listing Service (MLS), on a website and with signs on the building. The appellant also submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration indicating that the property had been advertised for sale and the purchase price was \$50,000. Also submitted was a copy of the closing statement and a copy of the contract for purchase and sale documenting the transaction. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$40,000. The subject's assessment reflects a market value of \$120,664 using the 2013 three year average median level of assessment for Winnebago County of 33.15% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales. The board of review also submitted a copy of a trustee's deed and a copy of a PTAX-203 Illinois Real Estate Transfer Declaration associated with the sale of the subject parcel and another parcel in April 2013 for a price of \$110,000. The transfer declaration indicated the property was not advertised for sale.

Conclusion of Law

The appellant contends the fair cash value or market value of the subject property is not accurately reflected in its assessed valuation based on a recent sale of the subject property. Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970).

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A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983). 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the purchase of the subject property in September 2013 for a price of \$50,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The information provided by the appellant indicated that the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open and it had been on the market for four years. In further support of the transaction the appellant submitted a copy of the sales contract, settlement statement and the PTAX-203 Illinois Real Estate Transfer Declaration. The Board finds the purchase price is below the market value reflected by the assessment. The Board finds the board of review did not present any evidence to challenge the arm's length nature of the transaction. The board of review submitted a copy of a trustee's deed and a copy of a PTAX-203 Illinois Real Estate Transfer Declaration associated with the prior sale of the subject parcel and another parcel in April 2013 for a price of \$110,000. This price also reflects a value below the market value reflected by the subject's assessment even including an additional parcel.

Based on this record the Board a reduction in the subject's assessment is justified.

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APPELLANT:	Michael Stiglianese
DOCKET NUMBER:	10-02323.001-I-2
DATE DECIDED:	July, 2015
COUNTY:	DuPage
RESULT:	No Change

The subject property is improved with a one-story industrial building of brick exterior construction with 23,508 square feet of building area.¹ The building was originally constructed in 1981 with an addition in 1989. The building has two separate users. The building has 1,904 square feet of office area. The office area and 50% of the shop area have central air conditioning. The effective clear ceiling height is 18 feet. The subject building is 100% sprinkled. The subject building has four overhead doors and three load levelers. The subject has 6,272 square feet of asphalt paving and 624 square feet of concrete paving. The subject property has a 46,000 square foot or a 1.056 acre site resulting in a land to building ratio of 1.96:1. The property is located in Addison, Addison Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted two appraisals of the subject property. Appraisal #1 was prepared by John Grimes, MAI and an Illinois State Certified General Appraiser. The appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$1,300,000 as of January 1, 2009. Appraisal #2 was prepared by appraisers, Ronald A. Wozniak, Illinois Certified General Real Estate Appraiser and Mark S. Grimes, MAI and a Certified General Real Estate Appraiser. The appraisers were not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Using the sales comparison approach and income capitalization approach, the appraisers estimated the subject property had a market value of \$1,150,000 as of November 17, 2010.

The appellant's attorney called no witnesses.

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

At the hearing the board of review objected to the appraisal reports contending the appraisers were not present to be cross-examined. The Board reserved ruling on the objection.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$566,700. The subject's assessment reflects a market value of \$1,702,825 or \$72.44 per square foot of building area, land included, when using the 2010 three

¹ The appellant's appraisers reported building sizes of 23,468 and 23,188 square feet of building area. The appraisals did not contain a schematic drawing of the subject building. The assessing officials reported a building size of 23,508 square feet of building area with a schematic drawing. Based on this record, the Board finds the subject has 23,508 square feet of building area.

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year average median level of assessment for DuPage County of 33.28% as determined by the Illinois Department of Revenue.

Representing the board of review was member Carl Peterson. Peterson called Addison Township Chief Deputy Assessor Frank Marack Jr. as a witness to testify regarding the evidence he prepared on behalf of the board of review.

The board of review submitted the subject's property record card, parcel history, a schematic drawing of the subject and a grid analysis of seven comparable sales.

Marack first testified about the subject property. Marack stated that the subject was built in three stages. Marack testified that the first stage was built in 1981 and was approximately 26.7% of the total building with an exterior height of 15 feet. Marack testified that the second stage of construction also took place in 1981 and was approximately 25.8% of the building with an exterior height of 19 feet. Marack then stated that the last stage of the building was for 47.5% of the building with an exterior height of 18 feet and was constructed in 1989. Marack testified that the subject building has an effective ceiling height of 18 feet. Marack also testified that the office space is roughly 8.1% of the building area. Marack stated that the subject property has an effective age of 1985. Marack testified that the subject building is a multi-tenant building that was originally constructed to be three units.

With respect to the board of review comparables, Marack testified that the comparables are located in Addison Township and within 2.5 miles of the subject property. The comparables are improved with one-story industrial buildings of brick exterior construction. The comparables were constructed from 1966 to 1990. The comparables have sites that range in size from 1.00 to 1.55 acres. The comparables have land to building ratios that range from 1.94:1 to 3.26:1. The comparables range in size from 19,628 to 25,324 square feet of building area. The comparables sold from January 2008 to June 2009 for prices ranging from \$1,512,500 to \$2,300,000 or from \$67.28 to \$107.17 per square foot of building area, land included.

Under cross-examination Marack testified that when corrections were made to the amount of office space in the subject property, the entire building was not re-measured. Marack also testified that he did not know if the property next door at 733 to 743 Annoreno sold during the relevant period from three years prior to the lien date.

Based on this evidence, the board of review requested a confirmation in the subject's assessed valuation.

Conclusion of Law

The appellant contends 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 is not warranted.

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In support of the overvaluation argument the appellant submitted two appraisals. The first appraisal estimated the subject had a market value of \$1,300,000 as of January 1, 2009. The second appraisal had an estimated market value of \$1,150,000 as of November 17, 2010. The board of review objected to the appraisal reports contending that neither appraiser was present to be cross-examined. The Board hereby sustains the objection. The Board finds the appellant's appraisers were not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Based on this case law, the Board gives the conclusion of value contained in these appraisals no weight since the appraisers were not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value.

The courts have also stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. The Board finds there are credible market sales contained in this record, and therefore, the Board will examine the raw sales data contained in this record, including the sales/listings in the appellant's appraisals.

The Board finds the record contains 17 comparable sales/listings submitted by the parties in support of their respective positions. The Board gave less weight to the comparables in appellant's appraisal #1, comparable #4 in appellant's appraisal #2 and board of review comparables #2, #3, #4, #6 and #7. These properties sold from December 2007 to December 2008, which are dated and less indicative of fair market value as of the subject's January 1, 2010 assessment date. The Board gave less weight to comparables #2 and #3 in appellant's appraisal #2 due to their considerably smaller building size when compared to the subject. The Board gave less weight to comparable #1 in appellant's appraisal #2 due to the reported deferred maintenance of the roof and sprinkler system that affected the sale price. The Board finds the remaining three comparables are more similar to the subject in land size, building size, style and features. These properties sold or were listed for sale from February 2009 to May 2010 for prices ranging from \$1,475,000 to \$1,565,000 or from \$67.28 to \$79.73 per square foot of building area including land. The subject's assessment reflects a market value of \$1,702,825 or \$72.44 per square foot of building area including land, which falls within the range established

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by the most similar comparables in this record on a per square foot basis. After considering adjustments to the comparables for any differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction in the subject's assessment is warranted.

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