



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

APPELLANT: Paul Hallman  
DOCKET NO.: 14-02700.001-R-1  
PARCEL NO.: 18-02-101-001

The parties of record before the Property Tax Appeal Board are Paul Hallman, the appellant, by attorney Andrew J. Rukavina, of The Tax Appeal Company, in Mundelein, and the McHenry County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** in the assessment of the property as established by the **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$13,480  
**IMPR.:** \$125,779  
**TOTAL:** \$139,259

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the McHenry County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject property consists of a two-story single-family dwelling of frame and brick exterior construction with 3,570 square feet of living area. The dwelling was constructed in 2001. Features of the home include a full walkout-style basement which has finished area, central air conditioning, two fireplaces on one stack and an attached 739 square foot garage. The property has a 16,082 square foot site and is located in Lakewood, Grafton Township, McHenry County.

The appellant appeared before the Property Tax Appeal Board by his attorney, Andrew Rukavina, contending overvaluation as the basis of the appeal. When witnesses were sworn, counsel also took an oath. Pursuant to Section 1910.70(f) of the rules of the Property Tax Appeal Board, "[a]n attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. . . . Except when essential to the ends of

justice, an attorney shall avoid testifying before the Board on behalf of a client." (86 Ill.Admin.Code §1910.70(f)).

In support of the overvaluation argument, the appellant had timely submitted an appraisal estimating the subject property had a market value of \$375,000 as of January 1, 2014. At the hearing, Attorney Rukavina reported that the appellant's retained appraiser, Charles Walsh, was not present at the hearing because the appraiser's father was recently deceased and the appraiser was "attending to his mother's needs right now." When asked by the Administrative Law Judge (ALJ) if a written request for continuance had been made, Attorney Rukavina responded, "No, I just found out a few days ago." When further asked by the ALJ if any contact had been made with the Property Tax Appeal Board to seek to postpone the hearing, counsel responded that he did not know that was available to him.

Pursuant to Section 1910.67(i) the procedural rules of the Property Tax Appeal Board provide, in pertinent part:

Continuances shall be granted for good cause shown in writing, and then only on an order of a Member of the Property Tax Appeal Board, or a duly authorized Hearing Officer. Good cause shall be the inability to attend the hearing at the date and time set by the Board for a cause beyond the control of the party, such as the unavoidable absence of a party, his attorney or material witness, or the serious illness or death of a witness or party. The Board shall set the hearing of a continued case at the time it sets other hearings of appeals from the county in which the subject of the continued appeal lies, unless the parties request that the Board decide the appeal based upon the evidence in the record without a formal hearing. [Emphasis added.]

In addition to the Board's procedural rule, the Hearing Notice for this matter also provided as one of its provisions that "The hearing cannot be postponed without good cause/reason submitted in writing to the assigned ALJ. (PTAB Rule Sec. 1910.67(i))."

Counsel further indicated that he was hopeful that the previously filed appraisal report could be considered in this proceeding. In response to this request, the ALJ advised that when a hearing has been requested, appraisal evidence without the presence of the appraiser for testimony means that the appraisal is a hearsay document.

Examining the raw sales data set forth in the appraisal, there are three comparable sales located within ½ of a mile of the subject property; two of the comparables are within the subject's subdivision. The comparables were described as parcels ranging in size from 16,185 to 45,682 square feet of land area. Each parcel was improved with a two-story dwelling ranging in age from 6 to 10 years old. The comparables range in size from 3,193 to 4,308 square feet of living area. Each comparable has a full basement, one of which has finished area. Each of the comparables features central air conditioning, one or two fireplaces and a three-car or a four-car garage. Comparables #1 and #2 were reported as "short sales" and each property was also reported as being in "inferior" condition when compared to the subject dwelling. The three comparables sold between January and December 2013 for prices ranging from \$355,000 to \$370,000 or from \$82.40 to \$112.75 per square foot of living area, land included.

Based on this evidence, the appellant requested a total assessment of \$125,000 which would reflect a market value of approximately \$375,000 or \$105.04 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$139,259. The subject's assessment reflects a market value of \$417,443 or \$116.93 per square foot of living area, land included, when using the 2014 three year average median level of assessment for McHenry County of 33.36% as determined by the Illinois Department of Revenue.

At hearing in response to the appellant's appeal and after appellant's counsel noted the appraiser was not present for hearing, McHenry County Board of Review Chairman, Mark Ruda, asserted an objection to the appellant's appraiser's "heavy use" of distressed sales. In addition, Ruda noted that if the appraiser were present there would have been questions of the appraiser concerning why only two interior photos were presented of the subject property, why was there no schematic drawing of the dwelling and why a second parcel that is part of the subject property was not included in the appraisal. Furthermore, given the appraiser's absence albeit due to a death in the family, Ruda requested that the appraisal report be disregarded as evidence.

Counsel for the appellant had no response to the board of review's request to disregard to appraisal report due to the absence of the appraiser for testimony at the scheduled hearing. Counsel acknowledged that he was essentially resting his case on the written record.

In support of its contention of the correct assessment, the board of review submitted information on four comparable sales. At hearing, the board of review presented as its witness Grafton Township Assessor Alan Zielinski, who has held that position since January 1, 2014. The witness opined that the subject's neighborhood was not as distressed driven as the appellant's appraisal comparables would indicate; Zielinski testified that the distressed sales were aberrant, as two short sales and one as a relocation sale. Zielinski further opined that the appellant's appraiser's sales were expressing market value "as is" as opposed to "true market value."

The comparables presented by the board of review were located an unknown distance from the subject property; none of the comparables are within the subject's subdivision. The subject and the comparables are located in the same neighborhood code assigned by the assessor. Zielinski testified that the various neighborhoods in which the comparables were located was "exactly equivalent" to the subject "in terms of the statistical analysis of the median values." The board of review's grid analysis failed to provide the parcel sizes for the subject or the comparables. Each comparable consisted of a two-story dwelling of frame, brick or frame and brick exterior construction that was built between 1976 and 2006. The comparables range in size from 2,921 to 4,001 square feet of living area. Each comparable has a basement, two of which are walkout style. Each of the comparables features central air conditioning, one or two fireplaces and a garage ranging in size from 673 to 1,025 square feet of building area. The comparables sold between June 2013 and February 2014 for prices ranging from \$382,500 to \$540,000 or from \$121.22 to \$138.89 per square foot of living area, land included.

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

On cross-examination, Zielinski did not believe that board of review comparable #1 was part of a country club subdivision. As to board of review comparable sale #2, the witness was of the opinion that the sale was an arm's-length transaction even though the property was had not been listed with the Multiple Listing Service. Board of review comparable sale #3 was located on water and/or a golf course as compared to the subject which is a standard lot that does not have either of those amenities.

The ALJ posed questions to the witness establishing that three of the board of review comparables were part two-story and part 1.5-story dwellings as compared to the subject and the appellant's appraisal comparables which were each part two-story and part one-story dwellings. Furthermore, when questioned about the difference in date of construction, Zielinski testified that he was of the opinion that effective age was more important than the actual age of board of review comparable #2 which was built in 1976 as compared to the subject dwelling that was built in 2001.

### **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.

As an initial matter, the Property Tax Appeal Board finds that in the absence of the appraiser at hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appellant's appraiser. Novicki v. Dept. of Finance, 373 Ill. 342 (1940); Grand Liquor Co., Inc. v. Dept. of Revenue, 67 Ill. 2d 195 (1977); Jackson v. Board of Review of the Dept. of Labor, 105 Ill. 2d 501 (1985). The Board finds the appraisal report is tantamount to hearsay. Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill. App. 3d 887 (1<sup>st</sup> Dist. 1983). Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2<sup>nd</sup> Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1<sup>st</sup> Dist. 1971). In the absence of an appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusion of \$375,000 as of January 1, 2014 has been significantly diminished and cannot be deemed conclusive as to the value of the subject property.

The record presents a total of seven comparable sales to support the respective positions of the parties before the Property Tax Appeal Board. As to the McHenry County Board of Review's

contention that the sales set forth in the appellant's appraisal were "distressed" sales, the Property Tax Appeal Board finds that Public Act 96-1083 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:

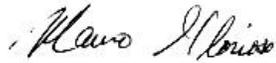
Compulsory sales. The Property Tax Appeal Board **shall** consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. [Emphasis added.]

The Board finds these statutes are applicable to assessment date at issue, January 1, 2014 and therefore, the Board shall consider compulsory sales in its determination of the correct assessment in this appeal.

Upon examination of the comparable sales in this record, the Property Tax Appeal Board has given reduced weight to appellant's appraisal sale #1 and board of review sales #2 and #3 due to differences in dwelling size, age and/or lot type when compared to the subject property.

The Board finds the best evidence of market value to be appellant's appraisal sales #2 and #3 along with board of review comparable sales #1 and #4. These four sales were most similar to the subject in age, size, design and/or features when compared to the subject. The comparables sold between January 2013 and February 2014 for prices ranging from \$360,000 to \$485,000 or from \$97.06 to \$121.38 per square foot of living area, including land. The subject's assessment reflects a market value of \$417,443 or \$116.93 per square foot of living area, including land, which is within the range established by the best comparable sales in the record and particularly well-supported by appellant's appraisal sale #3 which is very similar to the subject in lot size, design, age, dwelling size and features. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member



Member



Member

DISSENTING: \_\_\_\_\_

CERTIFICATION

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: February 13, 2019



Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year or years of the same general assessment period, as provided in Sections 9-125 through 9-225, are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for such subsequent year or years directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.

PARTIES OF RECORD

AGENCY

State of Illinois  
Property Tax Appeal Board  
William G. Stratton Building, Room 402  
401 South Spring Street  
Springfield, IL 62706-4001

APPELLANT

Paul Hallman, by attorney:  
Andrew J. Rukavina  
The Tax Appeal Company  
28643 North Sky Crest Drive  
Mundelein, IL 60060

COUNTY

McHenry County Board of Review  
McHenry County Government Center  
2200 N. Seminary Ave.  
Woodstock, IL 60098