



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

APPELLANT: Tamas Malacsina  
DOCKET NO.: 15-01331.001-R-1  
PARCEL NO.: 05-36-110-002

The parties of record before the Property Tax Appeal Board are Tamas Malacsina, the appellant, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$25,000  
**IMPR.:** \$127,399  
**TOTAL:** \$152,399

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 construction with 3,790 square feet of living area. The dwelling was constructed in 2014. Features of the home include a full unfinished lookout-style basement, central air conditioning, a fireplace and an attached garage of 699 square feet of building area. The property has a 15,246 square foot site which backs up to a golf course and is located in Elgin, Plato Township, Kane County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information on four comparable sales in a spreadsheet analysis along with a brief and an argument concerning one neighboring property that was purchased in 2009 for more than \$700,000. As part of the appeal, the appellant also reported the subject property was purchased on July 17, 2014 for \$483,536. At the hearing, the appellant summarized his contention in this matter that, if a dwelling were built

for "twice as much" as the subject dwelling that property should be taxed at "twice as much" as the subject property, although he also acknowledged that age may play a factor in some type of depreciation.

In the brief, the appellant argued that the comparables in the neighborhood "are over assessed compared to their most recent sales data." In part, the appellant contends that Illinois Supreme Court case precedent holds that fair cash value is 'what a property would sell for under normal circumstances, not what the property was built for.' In this regard, the appellant argued that recent resale data should be analyzed, not recent 'built data.' The appellant's spreadsheet also depicted that the comparable sale properties originally sold in 2007 and 2008 for prices ranging from \$530,000 to \$748,931 or from \$136.94 to \$171.66 per square foot of living area including land.

These four comparables in the spreadsheet were located within a mile of the subject. The comparables consist of two-story frame and brick dwellings that were built in 2007 or 2008. The homes range in size from 3,799 to 4,363 square feet of living area. Each comparable has a basement, central air conditioning, a fireplace and a garage of either 693 or 798 square feet of building area. The appellant reported the recent resales of these properties occurred between December 2012 and December 2015 for prices ranging from \$280,000 to \$484,000 or from \$64.18 to \$115.16 per square foot of living area, including land. The appellant also reported that the estimated market values of these comparables based upon their respective total assessments at the statutory level of assessment of 33.33% ranged from \$394,470 to \$489,031. Lastly in the spreadsheet, the appellant utilized these recent sale prices to determine what the assessments of the properties "should be" to arrive at those 2012 to 2015 sale prices.

In addition, the appellant argued in the brief and provided a spreadsheet comparing the subject dwelling to one neighbor's home. The neighboring property was built in 2009 and contains 3,985 square feet of living area and is, therefore, slightly larger than the appellant's home. This neighboring property sold in September 2009 for \$705,633. The appellant questioned why the neighboring property that "was built for \$289,834 more than the subject dwelling" and features a walkout finished basement, deck and porch, which were added after the initial purchase which was an additional investment of \$75,000, has an assessment that is \$2.72 per square foot less than the subject dwelling.

Finally, as part of the brief, the appellant requested an investigation [presumably by the Property Tax Appeal Board] into the inconsistent property assessment practices in Plato Township on the grounds that homeowners are over taxed because the homes have been excessively overvalued.

Based on the foregoing evidence and argument, the appellant requested a total assessment for the subject of \$92,850 which would reflect a market value of approximately \$278,550 or \$73.50 per square foot of living area, including land.<sup>1</sup>

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<sup>1</sup> In the brief, the appellant set forth the basis for this requested assessment by arguing that the subject property "was built for \$132.48 per square foot, which is 85.6% of what the comparables were built for." On the theory that the subject will probably only sell for 85.6% of what the comparables sold for, the appellant calculated the assessment request set forth in the Residential Appeal petition.

On cross examination, Schulenburg asked the appellant for the criteria used to select his comparable sales data. The appellant testified that he reviewed all homes that were similar, "the Toll Brothers" (phonetic) Masters Collection and looked for the sales that occurred in the last three years. The appellant further contended that there was nothing built in his area for the previous five years until his home was constructed.

Upon additional questions, the appellant testified that he did his own research when choosing to buy his home in 2014 and, in particular, examined the previous sales prices and the existing taxes. Based upon his own analysis, the appellant believed that his real estate tax bill would be substantially less than the neighboring property that had a significantly higher 2009 purchase price, but that has not turned out to be the case.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$152,399. The subject's assessment reflects a market value of \$457,517 or \$120.72 per square foot of living area, land included, when using the 2015 three year average median level of assessment for Kane County of 33.31% as determined by the Illinois Department of Revenue.

Appearing at the hearing on behalf of the Kane County Board of Review was its Chairman, Kevin Schulenburg, who called Janet Roush, the Plato Township Assessor, as the board of review's witness in this matter. In response to the appellant's appeal, the board of review submitted a memorandum and data gathered by Roush. In the memorandum, Roush noted that the subject and appellant's comparable #1 are properties which back to a golf course. In addition, the assessor contends that the neighboring property that sold in 2009 and which the appellant questioned its reduced 2015 assessment, had a reduced assessment "due to the market falling." Furthermore, appellant's comparable sale #2 was a bank owned REO sale which the township assessor did not include in her three-year-sales ratio study.<sup>2</sup> The evidence also included a grid analysis of the appellant's four comparable sales which depicted that appellant's comparable #4 also sold in June 2016 for a price of \$440,000.

Partially in addressing the appellant's arguments regarding the 2009 sale of the neighboring property for \$773,370, but not being assessed for that value as of January 1, 2015, Roush testified her observation has been that the money demanded by the Toll Brothers (phonetic) for amenities in the homes have not been recouped by the owners in the resale marketplace.

The board of review's evidence also includes two 'bing.com' aerial maps/photographs identifying the subject property along with the appellant's comparables and also depicting the subject property and nine of the board of review comparables. The map of the appellant's comparables displays only the one neighboring 2009 sale home as being immediately adjacent to the subject and appellant's comparable #1 being the next most proximate. The aerial of the board of review comparables is a wider area view which depicts five properties, including appellant's comparable #1, in relatively close proximity to the subject.

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<sup>2</sup> The attached copy of the PTAX-203 Illinois Real Estate Transfer Declaration depicts that the property was advertised prior to the sale transaction for \$340,000 and was intended to be the purchaser's residence.

In support of its contention of the correct assessment the board of review submitted information on 10 comparable sales, where board of review comparable #9 was a resale in November 2015 of the appellant's comparable #1. Seven of the board of review comparables have street addresses of Tournament Drive like the subject property. At hearing, Schulenburg moved to strike board of review comparable #10 from consideration since it depicted a dated 2008 sale and there was no backup documentation included in the submission to reflect a purported more recent sale of the property.

The remaining nine comparable sales presented by the board of review were located from .04 to .89 of a mile from the subject dwelling. The comparables consist of two-story frame or frame and brick dwellings that were built between 2007 and 2015. The homes range in size from 2,645 to 4,203 square feet of living area. Each comparable has a basement, two of which are lookout-style and four of which are walkout-style, with comparable #6 also having a fully finished basement. Each of the comparables have a fireplace and a garage ranging in size from 693 to 798 square feet of building area. The properties sold between December 2013 and November 2015 for prices ranging from \$469,000 to \$637,436 or from \$115.16 to \$177.32 per square foot of living area, including land.

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

In answer to a question posed by the Administrative Law Judge as to why board of review comparable #5, which is more than 1,000 square feet smaller than the subject dwelling, was a suitable comparable to the subject, Roush testified that her analysis was in part focused on the properties that back up to the golf course like the subject as those properties command a different price. In answer to an additional question whether a finished basement tends to increase an assessment, Roush testified that finished basements would somewhat increase the assessment in this development.

### **Conclusion of Law**

As an initial matter, the jurisdiction of the Property Tax Appeal Board is strictly limited by law to determining the correct assessment of the property which is the subject of an appeal. (35 ILCS 200/16-180). Only a taxpayer or owner of property dissatisfied with the decision of a board of review as such decision pertains to the assessment of his [or her] property for taxation purpose may file an appeal with the Board. (86 Ill.Admin.Code, §1910.10(c)). Thus, the Board specifically notes that it has no jurisdiction to determine the correct assessment(s) of neighboring properties which the appellant believes to be incorrectly assessed by the township assessor and/or to conduct an "investigation" into the assessment practices of the township.

As a general principle, for single-family residential property such as the subject, the assessing officials determine fair cash value using methods, such as, (1) market data which is a comparison of similar, neighboring properties recently sold to the property being assessed and (2) cost which is a calculation of the cost to reproduce (or rebuild) a property, subtracted by the depreciation (e.g., wear and tear, age) amount, plus the land value. See Publication 136, Property Assessment and Equalization by the Illinois Department of Revenue (April 2016), p. 6. Pursuant to the Property Tax Code, in Illinois real property assessment should be 33.33% of the fair cash value

which is to be based on the Illinois Department of Revenue's sales ratio studies for the three most recent years preceding the assessment year, adjusted to take into account any changes in assessment levels implemented since the data for the studies were collected. (35 ILCS 200/1-55)

In other words, the process of determining an assessment is not merely an application of the level of assessment to the most recent sale price of a particular property; in fact, the assessing officials are prohibited from engaging in a practice referred to as 'sale chasing' where the assessor would simply assess a given property at 33.33% of its recent sale price.<sup>3</sup> See Givens v. Property Tax Appeal Board, 84 Ill. App. 3d 218 (5<sup>th</sup> Dist. 1980) (a practice of reassessing the value of residential property for tax purposes upon the sale of the property while not reassessing the value of residential property not sold constitutes "sale chasing" and violates the equal protection clause of the United States Constitution and Article 9, section 4(a) of the Illinois Constitution of 1970). The court in Givens stated, in pertinent part, "[w]e would agree with Plaintiff that a practice of reassessing the market value of real estate sold could result in substantially differing and unequal tax burdens between properties subject to sale and those not subject to sale, in violation of the requirement of Article 9, Section 4(a) that taxes be uniformly levied." Id. In this matter, the appellant is arguing the opposite in that the neighboring property to the subject should in 2015 still be assessed for its 2009 purchase price so that it pays a greater proportion of area real estate taxes than does the subject which was purchased for a lesser price.

Furthermore, on this record, the Board finds that the appellant's grid analysis clearly depicts that homes that were built and purchased in 2007 and 2008 for \$530,000 to \$748,931 did not retain their values when resold between December 2012 and December 2015. The resales ranged from \$280,000 to \$484,000. This data set confirms the testimony presented by Roush that the original sales prices commanded by the developer are not being realized by the owners upon resale of the properties. Therefore, based on this record and pertinent case law, the Board has given this argument relating dated sales prices by the appellant to current assessments/estimated market values no weight.

The appellant in this appeal 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 on this record. Moreover, in light of the appellant's recent purchase price of the subject property, which is greater than its current estimated market value based upon its assessment, no reduction in the subject's assessment is justified.

For their respective contentions before the Property Tax Appeal Board concerning market value, the appellant presented four comparable properties and, after striking comparable #10, the board of review presented nine comparable properties, where there was one property common to both parties.

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<sup>3</sup> If the local assessing officials "sales chased" the subject property's July 2014 sale price of \$483,536, the subject would have had a January 1, 2015 assessment of approximately \$161,163 which would be higher than its actual 2015 total assessment of \$152,399.

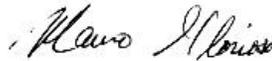
The Property Tax Appeal Board has given reduced weight in its analysis to board of review comparables #5 and #6 due to differences in dwelling size and basement finish, respectively, when compared to the subject dwelling.

As to the board of review's evidence that appellant's comparable #2 which sold for \$340,000 was a bank owned REO sale, the Board finds that as of July 16, 2010, the Property Tax Code mandates that 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. (35 ILCS 200/16-183) The Property Tax Code defines a compulsory sale in part as "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." (35 ILCS 200/1-23) Therefore, the Board finds the assertion by the board of review that appellant's comparable #2 was a bank owned REO sale an insufficient basis, without any additional basis or argument, as an insufficient reason to discount use of this comparable in the Board's analysis.

The board of review also reported in its submission that appellant's comparable #4 which sold in March 2013 for \$280,000, resold in June 2016, 1.5-years after the assessment date at issue, for a price of \$440,000.

On this record, the Board finds the best evidence of market value to be the appellant's comparable sales along with board of review comparable sales #1 through #4 and #7 through #9, where there is one common property between the parties. These ten most similar comparables sold between December 2012 and June 2016 for prices ranging from \$280,000 to \$533,166 or from \$64.18 to \$151.64 per square foot of living area, including land. The subject's assessment reflects a market value of \$457,517 or \$120.72 per square foot of living area, including land, which is within the range established by the best comparable sales in this record and well-supported particularly given that the subject property was purchased in May 2014, shortly before the assessment date at issue, for \$483,536. 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

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