

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Scott and Cathy LePenske
DOCKET NO.: 05-00800.001-R-1
PARCEL NO.: 05-25-200-043

The parties of record before the Property Tax Appeal Board are Scott and Cathy LePenske, the appellants, and the Kane County Board of Review.

The subject property has been improved with a one-story, frame single-family dwelling containing 2,037 square feet of living area constructed in 1988. Features of the dwelling include a full finished basement, central air conditioning, fireplace, and a two-car attached garage. The property is located in Elgin, Plato Township, Kane County, Illinois.

Appellants reported the subject dwelling to have 1,772 square feet of living area as stated in an appraisal filed in support of an overvaluation claim. The appraiser was not present at the hearing to explain the method of calculating the square footage set forth in the appraisal report. The board of review's evidence, which included a copy of the property record card for the subject dwelling, indicated the dwelling contains 2,037 square feet of living area. Furthermore, upon questioning by the Hearing Officer, appellant Scott LePenske had no information to dispute the measurement reported by the township assessor. The Property Tax Appeal Board finds that the best evidence in the record of the subject dwelling's living area square footage is the property record card showing 2,037 square feet of living area.

Appellant Scott LePenske appeared before the Property Tax Appeal Board arguing that the fair market value of the subject was not accurately reflected in its assessed value. In support of the overvaluation argument, appellants filed an appraisal that estimates a market value for the subject property of \$282,000 as of October 21, 2005 utilizing both the cost approach and the sales comparison approach to value. The appraiser was not

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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:	\$	32,857
IMPR.:	\$	57,498
TOTAL:	\$	90,355

Subject only to the State multiplier as applicable.

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present at the hearing to provide direct testimony or to be cross-examined regarding the appraisal methodology and final value conclusion. Appellants' residential appeal petition sought a reduction from the 2005 total assessment of \$98,406 to a revised total assessment of \$85,330. The requested assessment would result in an estimated market value of \$255,556 based on the 2005 three-year median level of assessments for Kane County of 33.39% as determined by the Illinois Department of Revenue, which is lower than the estimated market value of the subject property set forth in the appraisal.

Besides presenting an appraisal to support an overvaluation claim, appellants filed copies of revised assessment notices and/or a Kane County Board of Review Notice of Findings for years 2002, 2003 and 2004 reflecting total assessments for the subject property of \$80,912, \$88,325, and \$91,657, respectively. More specifically, in his opening statement, appellant LePenske argued that a decision by the Kane County Board of Review for the 2004 assessment year reduced this owner-occupied property's assessment to \$91,657 and should be carried forward, subject only to the township equalization factor of .9858, until the next general assessment cycle in 2007. (35 ILCS 200/16-80) Based on this legal contention, the appellant requested the subject's assessment of 2004 as determined by the Kane County Board of Review be carried forward to 2005, subject only to equalization.

The Board of review presented "Board of Review Notes on Appeal" wherein the subject's final assessment of \$98,406 was disclosed along with an equalization factor of 0.9858. Among the documents filed by the board of review with the Property Tax Appeal Board was the appellants' underlying complaint made with the board of review. Within the appellants' board of review complaint was a legal argument and citation to Section 16-80 of the Property Tax Code along with a photocopy of the text of the statute.

The board of review representative objected to the presentation of a legal argument at hearing which had not been raised specifically in the appeal. The representative argued that no history of the 2004 assessment decision had been placed in the record by the appellants and that no contention of law had been made when the appeal was filed.

In support of the current assessment, the board of review presented various documents including a letter from the Plato Township Assessor along with various documents including the subject's property record card, a schematic drawing of the subject, and a three-page, single-spaced listing of properties in the subject's subdivision. Most of the three-page document consisted of parcel numbers, street addresses, design (number of stories), square footage, and assessment data for land, improvement and total, the next column on the listing was a

"value" amount, and the last column was entitled "value per square foot." At the very bottom of this three-page document, there was sales information for five properties described by parcel number, street address, square footage, date of sale, sale price, and price per square foot. The board's representative indicated these sales were of one-story properties, but nothing in the evidence indicates the design of the properties. Of these five sales, based on the parcel identification number and the previous listing of every parcel in the subject's subdivision, only one of the sale properties appears to be in the subject's subdivision. In the course of the hearing, the board of review representative requested that only the first two sales be considered for purposes of this appeal because they occurred at or prior to the date of valuation of January 1, 2005. These two properties contain 2,020 and 1,856 square feet, respectively, and sold in January 2005 and October 2004 for prices of \$336,000 and \$303,000 or for \$166.34 and \$163.25 per square foot of living area, including land.

Plato Township Assessor Janet Roush was called to testify on behalf of the board of review and indicated that she reassesses all the properties in her township every year. Evidence was also elicited that 2003 was the beginning of a new general assessment period with the new quadrennial reassessment occurring in 2007.

In the course of the hearing, a board of review member with CIAO and CAE designations put forth various oral criticisms of the appellants' appraisal report. The board of review closed its case seeking confirmation of the subject's assessment and expressing disappointment that the legal issue had not been specifically raised prior to hearing. However, when offered the opportunity by the Hearing Officer to stipulate to the value of the subject property based upon the requirements of Section 16-80 of the Property Tax Code, the board of review representative declined to do so.

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.

Section 16-80 of the Property Tax Code (35 ILCS 200/16-80) provides:

In any county with fewer than 3,000,000 inhabitants, if the board of review lowers the assessment of a particular parcel on which a residence occupied by the owner is situated, the reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless the taxpayer, county assessor, or other interested party can show

substantial cause why the reduced assessment should not remain in effect, or unless the decision of the board is reversed or modified upon review.

Based on this provision, the Property Tax Appeal Board finds the board of review is bound to its decision issued for the 2004 assessment year of the subject property, subject only to equalization. As such, the board of review's objection to the legal argument being raised at hearing is overruled and the decision herein shall be based on the Property Tax Code as provided in Section 16-80. The Property Tax Appeal Board finds that the prior year's decision made by the Kane County Board of Review should be carried forward to the subsequent year subject only to any equalization factor applied to that year's assessments. This finding is pursuant to Section 16-80 of the Property Tax Code (35 ILCS 200/16-80).

The subject property is an owner occupied residence that was the subject matter of an appeal before the Kane County Board of Review the prior year of 2004. In that appeal the Kane County Board of Review rendered a decision lowering the assessment of the subject property based on the evidence submitted.

The record contains no evidence indicating substantial cause why the reduced assessment should not remain in effect. There also was no evidence that the 2004 decision of the Kane County Board of Review had been reversed or modified upon review by the courts or this Board. Finally, the evidence indicates that the assessment year in question, 2005, is in the same general assessment period. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the Kane County Board of Review's prior year's finding of \$91,657 plus the application of the factor of 0.9858 applied for equalization for the 2005 assessment.

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.



Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

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: June 27, 2008



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 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 the subsequent year 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.

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.