



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

APPELLANT: James Tackett  
DOCKET NO.: 07-02462.001-R-1  
PARCEL NO.: 07-30-102-048

The parties of record before the Property Tax Appeal Board are James Tackett, the appellant; and the Lake County Board of Review.

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 Lake County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$4,696  
IMPR.: \$49,840  
TOTAL: \$54,536**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a two-story style frame dwelling containing 2,913 square feet of living area that was built in 2005. Amenities include central air conditioning, a fireplace and an attached garage. The subject property also has the exclusive right and benefit of a boat slip. No physical description of the boat slip was provided.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of appeal. More specifically, the appellant argued the boat slip associated with the subject property is personal property that should not be included in its assessed valuation.

The record shows the appellant purchased the subject property on July 26, 2007 for \$373,000. The sale price included the exclusive right, assignment and use of a boat slip, which the appellant claimed had a value of \$25,000. Thus, the appellant argued the net sale price for the subject property was \$348,000 excluding personal property.

In support of the personal property contention, the appellant submitted e-mail communications from the builder/developer of the subject property indicating the boat slip had a value of \$25,000. The communication also indicated the appellant may sell the assignment of the boat slip to only homeowners within the subject's 65 unit development. The appellant also submitted the subject's final assessment as determined by the Lake County Board of Review. The document indicates the board of review rendered a decision regarding the subject property on February 21, 2008, lowering the assessment to \$124,321.

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$115,988, which reflects an estimated market value of \$348,000, rounded.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$54,536 was disclosed.

In a letter responding to the appeal, the chairman of the board of review explained the subject property's assessment was reduced to \$124,321 to reflect 1/3 of its \$373,000 arm's-length sale price. The letter further explained the subject's improvement assessment was subsequently reduced to \$49,840 for a total assessment of \$54,536<sup>1</sup> to reflect the seven month time period for which the subject property was receiving a preferential assessment as a model home provided by section 10-25 of the Property Tax Code. (35 ILCS 200/10-25).

With respect to the subject's boat slip, the board of review argued the transfer of the boat slip to the owner was included in the warranty deed as opposed to a bill of sale. The warranty deed describes the boat slip as an "exclusive right and easement. . . to use Boat Slip 6." The board of review also submitted the subject's Real Estate Transfer Declaration. The document shows the subject property was purchased for \$373,000 on July 26, 2007. The document did not list any personal property included in the transaction. Based on this evidence, the board of review argued the subject's boat slip has been classified correctly and should be included in the subject's assessment.

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<sup>1</sup> The Property Tax Appeal Board finds the Lake County Board of Review issued a decision on February 21, 2008, establishing a final assessment for the subject property of \$124,321. The Property Tax Appeal Board finds the Lake County Board of Review provided no explanation, documentation or legal authority in which the subject's assessment could then be further reduced to the \$54,536 assessment amount subsequent to issuing its final decision. In an opinion, the Illinois Attorney General has determined that once a decision of the board of review is appealed to the Property Tax Appeal Board, the board of review has no power to alter an assessment by issuance of a Certificate of Error. (1977 Ill.Atty.Gen.Op. 188, 1977 WL 19157 Oct.24, 1977)).

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 Board further finds a reduction in the subject property's assessment is warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. More specifically, the appellant argued the boat slip associated with the subject property is personal property that should not be included in the property's 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002).

The Property Tax Appeal Board finds the appellant failed to support his claim that the subject's boat slip is personal property and should be deducted from its assessed value. The Board finds the board of review submitted the subject's Real Estate Transfer Declaration. The declaration shows the subject property was purchased for \$373,000 on July 26, 2007. The document did not list any personal property included in the transaction. The Board finds the board of review also submitted a copy of the subject's warranty deed that was recorded in the Lake County Recorder's office on August 10, 2007. The warranty deed, in pertinent part, described the subject's Real Estate to include "Parcel 2: an exclusive right and easement of the benefit of Parcel 1 to use Boat Slip 6. . . ." 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, . . . **and all rights and privileges belonging or pertaining thereto, except where otherwise specified by this Code.** (35 ILCS 200/1-130).

Based on the evidence in this record, the Property Tax Appeal Board finds the board of review correctly determined that the July 26, 2007 sale price of \$373,000 reflected the market value of the subject's real property.

The record further indicates that the board of review adjusted the subject's assessment at some point after issuance of a notice of final decision due to the fact the dwelling was being assessed as a model home. (See 35 ILCS 200/10-25). The appellant did not otherwise challenge these calculations. Therefore, the Property Tax Appeal Board finds, while not condoning the board of review's action of changing an assessment after issuing a decision that is appealed to the Property Tax Appeal Board, its decision should reflect the assessment as subsequently revised in order to reflect the subject's model home status for seven months of the 2007 assessment year. Therefore a reduction is warranted from

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the board of review final assessment amount of \$124,321 as issued in its final decision on February 21, 2008.

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.

*Ronald R. Guit*

Chairman

Member

*Mark Morris*

Member

Member

*William R. Lerbis*

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: September 24, 2010

*Allen Castrovillari*

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.