



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

APPELLANT: John & Denise Devine  
DOCKET NO.: 07-02698.001-R-1  
PARCEL NO.: 12-08-252-008

The parties of record before the Property Tax Appeal Board are John & Denise Devine, the appellants, and the Kane County Board of Review.

Based on the facts and exhibits presented, 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: \$25,208  
IMPR.: \$64,139  
TOTAL: \$89,347**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story dwelling of frame construction containing 1,728 square feet of living area. The dwelling is 19 years old and features a full, unfinished basement, central air conditioning, a fireplace, and an attached two-car garage of 396 square feet of building area. The property is located in Geneva, Geneva Township, Kane County.

The appellants appeared before the Property Tax Appeal Board contending unequal treatment in the assessment process with regard to the subject's improvement assessment; no dispute was raised concerning the land assessment. In support of the appeal, the appellants included a two-page letter and a grid analysis of suggested comparable properties.

In the letter, among other things, the appellants contend the township assessor's assertions that comparable properties for appeal purposes must be in the city and of a similar design to the subject property are erroneous. Moreover, appellants contend that other properties within the subject's area are incorrectly assessed. To challenge the subject's improvement assessment, the appellants submitted information on four comparable properties located within ½-mile of the subject property and described as a one-story, a split level, and two, two-story frame or masonry

dwellings that range in age from 19 to 35 years old. The comparable dwellings range in size from 1,492 to 2,018 square feet of living area. Features include unfinished basements, central air conditioning, a fireplace, and a two-car garage. The comparables have improvement assessments ranging from \$50,861 to \$67,103 or from \$25.20 to \$39.07 per square foot of living area. The subject's improvement assessment is \$64,139 or \$37.18 per square foot of living area. Within the evidence, appellants noted that comparables #3 and #4 were both located on low traffic streets and one had a larger porch than the subject; appellants further reported that these two comparables sold in October 2005 and November 2006 for \$282,000 and \$298,500, respectively, or \$172.74 and \$189.01 per square foot of living area including land.<sup>1</sup> Based on this evidence, the appellants requested a reduction in the subject's improvement assessment to \$62,685 or \$36.28 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$89,347 was disclosed. In support of the subject's improvement assessment, the board of review presented a grid with photographs depicting five suggested comparables located within the subject's subdivision of model dwellings like the subject similar in age, size and amenities to the subject.

The five board of review comparables were two-story frame dwellings that range in age from 16 to 20 years old. The dwellings each contain 1,728 square feet of living area. Features include a basement of either 712 or 963 square feet of building area, two of which included finished area, central air conditioning, and an attached garage. Four comparables have a fireplace; each comparable has a porch and three have a patio or deck. These properties have improvement assessments ranging from \$60,947 to \$69,644 or from \$35.27 to \$40.30 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's improvement assessment of \$37.12 per square foot of living area.

In written rebuttal, the appellants pointed out differences between the subject dwelling and board of review comparables #1 and #2 including porches, decks and/or fireplaces, while also acknowledging that the subject's basement is 251 square feet larger than either of these comparables. From this analysis, the appellants concluded that the subject dwelling is over-assessed on a per-square-foot basis in comparison to these two comparables with various additional features not present on the subject. At hearing in rebuttal, the appellants also noted that board of review comparables #4 and #5 have finished basements which differ from the subject.

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<sup>1</sup> The subject property's assessment reflects an estimated market value of approximately \$268,041 or \$155.12 per square foot of living area including land.

After hearing the testimony and considering the record, 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's assessment is not warranted.

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, Sec. 1910.10(c)). Thus, the Board specifically notes that it has no jurisdiction to determine the correct assessment(s) of neighboring properties which the appellants believe to be incorrectly assessed by their township assessor.

The appellants contend unequal treatment in the subject's improvement assessment as the 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). After an analysis of the assessment data, the Board finds the appellants have not met this burden.

The parties submitted a total of nine comparable properties for the Board's consideration. The Board has given less weight to the appellants' comparables #1 and #2 due to differences in design, exterior construction, and/or age. Comparables presented should thus be similar to the subject not only in location, but also in design, age, size and amenities. The Board has also given less weight to board of review comparables #4 and #5 due to their finished basement features as compared to the subject. Thus, the Property Tax Appeal Board finds that appellants' comparables #3 and #4 and board of review comparables #1, #2 and #3 were most similar to the subject in location, identical in living area square footage, identical in style and exterior construction, and similar in features, and/or age, although the subject has a larger basement than each comparable except board of review comparable #3. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$35.27 to \$39.67 per square foot of living area. The subject's improvement assessment of \$37.12 per square foot of living area is within the range established by the most similar comparables on this record. The Board recognizes the slight variations in these most similar comparables on this record, but after considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted.

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 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. 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.

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. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

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: February 23, 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.