



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

APPELLANT: Anthony & Debora Mendyk
DOCKET NO.: 07-06490.001-R-1
PARCEL NO.: 03-08-251-007

The parties of record before the Property Tax Appeal Board are Anthony & Debora Mendyk, the appellants; and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$19,502
IMPR.: \$113,618
TOTAL: \$133,120

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a residential property located in Dundee Township, Kane County, Illinois.

The appellants submitted evidence before the Property Tax Appeal Board claiming the subject's assessment is not reflective of its fair market value. In support of this claim, the appellants submitted an appraisal of the subject property. Using the sales comparison approach to value, the appraisal estimated the subject property has fair market value of \$400,000 as of December 31, 2007. The record also disclosed the subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under docket number 06-01639.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$141,652 based on the evidence submitted by the parties. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the appraised value of \$400,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final equalized assessment of \$155,391 was disclosed. The subject's assessment reflects an estimated market value of \$466,920 using Kane County's 2007 three-year median level of assessments of 33.28%. Attached to the "Board of Review Notes on Appeal" was a memorandum from the local township assessor to the board of review. The memorandum requests the board of review "carry over" the subject's 2006 Property Tax Appeal Board ruling with application of the 2007 township multiplier for final 2007 assessment of \$143,989. In addition, the assessor requested the subject's 2007 equalized assessment of \$143,989 be "carried forward" to 2008 plus application of the 2008 township multiplier or a final assessment of \$150,108. The assessor indicated the subject's 2008 equalized assessment of \$150,108 was carried forward with "our 2009 decrease we did for the whole township" for final 2009 assessment of \$148,608.

The board of review offered to reduce the subject's 2007 assessment to \$143,989. The proposed assessment amount was based on the Property Tax Appeal Board's prior year's decision plus application of the 2007 equalization factor of 1.0165%. The board of review did not submit any market value evidence to support the proposed assessment; request an extension of time to file any additional evidence or refute the value conclusion contained in the evidence submitted by the appellants.

The appellants were notified of this suggested assessment and given thirty (30) days to respond if the offer was not acceptable. The appellants responded to the Property Tax Appeal Board by the established deadline rejecting the proposed assessment. The appellants rejected the proposed assessment due to a newly obtained appraisal report for a 2009 assessment complaint¹.

In rebuttal, the appellants filed the aforementioned appraisal that estimated a fair market value for the subject property of \$420,000 as of December 31, 2008. The Board finds it cannot consider the new appraisal because it constitutes newly discovered evidence. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states:

Rebuttal evidence shall not consist of new evidence **such as an appraisal** or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in guise of rebuttal evidence. (86 Ill.Adm.Code §1910.66(c)).

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the

¹ The appellants filed an assessment complaint with the Property Tax Appeal Board under Docket Number 09-03108.001-R-1.

parties and the subject matter of this appeal. The Board further finds a reduction in the subject's assessment is warranted.

The appellants argued the subject property was overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellants have overcome this burden.

The appellants submitted an appraisal estimating that the subject property has a fair market value of \$400,000 as of December 31, 2007. The board of review did not submit any evidence in support of its assessment of the subject property nor refute the value conclusion contained within the appellants' evidence as required by Section 1910.40(a) and (d) of the Official Rules of the Property Tax Appeal Board. The subject's assessment of \$155,391 reflects an estimated market value of \$466,920, which is considerably higher than the appraisal submitted by the appellants. The Property Tax Appeal Board finds the best evidence of the subject's market value contained in this record is the appraisal submitted by the appellants for \$400,000. Since fair market value has been established, the three-year median level of assessments for Kane County of 33.28% shall apply.

The Board gave little merit to the response offered by the board of review in this appeal. The board of review contends, through a memorandum supplied by the township assessor, the Property Tax Appeal Board's prior year's decision, which reduced the subject's assessment to \$141,652, should be carried forward with application of the 2007 equalization factor of 1.0165%. The Board finds the board of review's inference to the applicability Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) to be in error. 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 on which a residence occupied by the owner is situated, such 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 that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. (35 ILCS 200/16-185)

Based on this statutory language, the Board finds the subject's 2006 decision is not automatically carried forward to the subsequent assessment year. The Board takes judicial notice that the first year of the new general assessment period in Kane County was 2007, the assessment year in question under this appeal. Therefore, the Board finds the subject's 2007 assessment

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amount is not controlled by the relevant provisions as outlined in Section 16-185 of the Property Tax Code. (35 ILCS 200/16-185)

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 M. Louie

Member

Shawn 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: December 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.