



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

APPELLANT: Tad Yetter  
DOCKET NO.: 08-07039.001-R-1  
PARCEL NO.: 09-01-411-005-0040

The parties of record before the Property Tax Appeal Board are Tad Yetter, the appellant, by attorney Jesse R. Gilsdorf, Mt. Sterling; and the Mason 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 **Mason** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 10,208  
**IMPR.:** \$ 32,138  
**TOTAL:** \$ 42,346

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a two-story frame dwelling that is approximately 110 years old and contains 2,593 square feet of living area. Features include a full basement, central air conditioning, and a two-car detached garage with 529 square feet of building area. The residence is owner occupied. The property is located in Havana Township, Mason County, Illinois.

At the commencement of the hearing under questioning by the Board's Hearing Officer, Kristi J. Poler, Clerk for the Mason County Board of Review, testified that the subject property is comprised of a parcel on which a residence occupied by the owner is situated and that assessment years 2007 and 2008 are within the same quadrennial general assessment period. The record also disclosed the subject property was the subject matter of an appeal before the Property Tax Appeal Board the prior assessment year under Docket Number 07-03057.001-R-1. In that appeal, the Property Tax Appeal Board issued a Final Administrative Decision lowering the subject's assessment to \$39,702 based on an agreement signed by the parties that was supported by the evidence contained in that record. The Board's Hearing Officer

also noted the board of review cited Section 16-185 of the Property Tax Code, which 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).

The appellant appeared before the Property Tax Appeal Board with legal counsel claiming the subject property was inequitably assessed. Prior to presenting its case in chief, appellant's counsel called Kristi J. Poler as a witness. Poler testified she could not corroborate the assessment data submitted by the appellant without the assistance of property record cards. Poler agreed she has no objection to the factual assessment information regarding the subject and comparables submitted on behalf of the appellant.

Appellant's counsel next called each of the Mason County Board of Review members, Forest Van Orman, Jim Griffin and Carol Umbach as witnesses. Each board member gave similar answers throughout the contentious questioning. Each Board member testified they had no objection with respect to the assessment information pertaining to the subject and comparables submitted on behalf of the appellant. Each board member agreed the subject's 2008 assessment was established from the Property's Tax Appeal Board's 2007 decision plus application of the Havana Township equalization factor of 1.0666%.

Van Orman agreed and testified under questioning "the goal" of equalization of assessments must be done in the same manner for the same type of property. Van Orman agreed "the rest of property (assessments) in the area are based on normal assessment procedures." Van Orman qualified his answer by stating "I can't answer that at this time because I don't have, I wasn't prepared, I don't have the information available." Griffin twice testified "I don't know sir" when questioned if the subject property was assessed "the same way" as the rest of the residential property in the immediate neighborhood was assessed. Griffin did not respond to nor understand the question raised by counsel that "the rest of the neighbors in the area, were they (assessments) determined based on Mr. Yetter's (appellant) 07' assessment appeal or determined based on the normal assessment methods." Umbach agreed the comparables submitted by the appellant did not appeal to the board of review or Property Tax Appeal Board and were assessed in the "normal" manner. Umbach testified she did not understand counsel's questions that the subject property was

assessed using a different methodology than other properties. She qualified her answer by stating the other properties' assessments were not based on a Property Tax Appeal Board decision because they did not "go" to the Property Tax Appeal Board.

In narrative, counsel formulated a scenario stating "of course if a property changes, let's say for instance if a house burns down, the board of review would obviously reduce the value (inaudible) of the property, is that right?" Umbach agreed. Counsel next stated: "except for Mr. Yetter. If his house burns down he still suffers the 07' assessment, that your position, right." After persistent questioning on this speculative matter and the effect of Section 16-185 of the Code (35 ILCS 200/16-185), Umbach testified that "I don't think your logic is right." Umbach agreed that the subject's assessment can change in subsequent years based on changes to the property.<sup>1</sup>

Van Orman was next recalled as a witness and was asked similar questions with respect to the "burn down" scenario and "changes" to the property. Van Orman testified that "if his (Yetter's) house was burned up, we would change it (assessment), yes." Van Orman assumed that was the power of the board of review. Counsel next asked that "notwithstanding his objection to PTAB, you believe you can change his assessment based on a change in condition." Van Orman responded by stating "I don't quite understand your logic or your question."<sup>2</sup> Van Orman stated that if his house (Yetter) burns or anyone's house burns, changes can be made.<sup>3</sup>

In support of the inequity claim, the appellant completed Section V on the residential appeal petition identifying four suggested assessment comparables. The comparables are located in close proximity to the subject. The comparables consists of 1.5 or 2-story dwellings of frame or brick exterior construction that are from 94 to 103 years old. Features include full basements and one fireplace. Three comparables have garages that range in size from 252 to 600 square feet. One comparable has a 375 square foot carport. The dwellings range in size from 2,183 to 3,812

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<sup>1</sup> The Board hereby finds counsel's line of questioning is without merit in this appeal. Counsel's speculative questions with respect to subject property "burning" is remedied and controlled, as a practical matter, under Sections 16-160 and 16-180 of the Property Tax Code. (35 ILCS 200/16-160 and 16-180).

<sup>2</sup> At this point in the proceeding, the Board's Hearing Officer had discussions with appellant's counsel pertaining to the aggressive tone and nature of questioning.

<sup>3</sup> Attorney and retired circuit court Judge Thomas Brownfield objected on behalf of the board of review to appellant's counsel's questions as speculative, which was sustained by the Board's Hearing Officer. However, appellant's counsel raised the issue that Brownfield was not "authorized" to represent the board of review based on section 1910.70(d) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a)). Ultimately, Brownfield did not represent the board of review in this appeal. Appellant's counsel also requested the Board's Hearing Officer recuse himself. The Board hereby denies such request and finds the Board's decision shall be based on the weight and equity of the evidence contained in this record.

square feet of living area. The comparables have improvement assessments ranging from \$14,016 to \$45,447 or from \$5.15 to \$13.85 per square foot of living area. The subject property has an improvement assessment of \$32,138 or \$12.39 per square foot of living area.

The comparables have lots that range in size from 10,890 to 20,130 square feet of land area with land assessments ranging from \$3,618 to \$6,775 or from \$.33 to \$.38 per square foot of land area. The subject property has 25,575 square feet of land area and a land assessment of \$10,208 or \$.40 per square foot of land area.

Appellant's counsel did not call any other witnesses or provide any explanation with respect to the comparable assessment equity analysis submitted on behalf of the appellant. Based on the foregoing arguments and evidence, the appellant requested a total assessment for the subject property of \$34,062.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final 2008 assessment of \$42,346 was disclosed. In support of its assessment of the subject property, the board of review submitted a letter addressing the appeal and a copy of the Final Administrative Decision issued by the Property Tax Appeal Board in Docket No. 07-03057.001-R-1. In that appeal, the Board issued a decision lowering the subject's assessment to \$39,702 based on an agreement signed by the parties that was supported by the evidence contained in that record.

In the letter, the board of review indicated that the appellant did not file a 2008 assessment complaint before the board of review. The evidence revealed the appellant appealed the subject's assessment directly to the Property Tax Appeal Board from the prior year's decision issued by the Board pursuant to Section 16-185 of the Property Tax Code, which 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 board of appeals or after adjournment of the session of the board of review or board of appeals 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. (35 ILCS 200/16-185).

The board of review also cited to Section 16-185 of the Property Tax Code which 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).

The board of review argued the subject's 2008 assessment was revised to reflect the Property Tax Appeal Board 2007 decision of \$39,702 plus application of the Havana Township equalization factor of 1.0666 ( $\$39,702 \times 1.0666 = \$42,346$ ) pursuant to Section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). Therefore, the board of review requested confirmation of the subject's 2008 assessment.

Under cross-examination, Poler testified that the subject's assessment was calculated using a different procedure than other properties because of the prior year Property Tax Appeal Board decision.

In closing, appellant's counsel referred to the Illinois Constitution and the Illinois Supreme Court's decision in Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228 (1998). Counsel argued the Illinois Supreme Court held that assessing certain properties based on their true cash value as evidence of recent sales, while assessing like properties under a different method is a violation of the uniformity clause of the Illinois Constitution, particularly article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes "shall be levied uniformly by valuation as ascertained as the General Assembly shall provide by law." Ill.Const.1970, art IX, §4(a). Counsel also cited Tazewell County Board of Review v. Property Tax Appeal Board, 322 Ill.App.3d 949 (3<sup>rd</sup> Dist. 2001) to further support the proposition that the subject property was not legally assessed.

After hearing the testimony and considering the arguments and evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board finds no reduction in the subject's assessment is warranted.

As an initial matter, the Board finds the appellant filed an assessment complaint before the Property Tax Appeal Board claiming the subject's assessment was not uniform with the assessments of similarly situated properties. Not until hearing did appellant's counsel raise the issue that the methodology employed by Mason County Assessment Officials was not uniform in calculating the subject's assessment. Section 16-180 of the Property Tax Code provides in pertinent part:

Each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board. (35 ILCS 200/16-180).

Additionally, Sections 1910.30(h) and 1910.50(a) of the rules of the Property Tax Appeal Board state in pertinent part:

Every petition for appeal shall state the facts upon which the contesting party bases an objection to the decision of the board of review, together with a statement of the contentions of law the contesting party desires to raise. . . If contentions of law are raised, the contesting party shall submit a brief in support of his position with the petition.<sup>4</sup> Extensions of time shall be granted in accordance with subsection (g) of this section. (86 Ill.Admin.Code §1910.30(h)).

Each appeal shall be limited to the grounds listed in the appeal petition filed with the Board. (86 Ill.Admin.Code §1910.50(a)).

The appellant's appeal petition that was filed with the Property Tax Appeal Board on March 22, 2010 was clearly marked as "Assessment Equity" as the basis of the appeal, which suggests that the subject's assessment was not uniform with other similarly situated properties.

The Illinois Supreme Court has held that 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). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds that the appellant has failed to overcome this burden.

In support of the inequity claim, the appellant identified four suggested assessment comparables with varying degrees of similarity when compared to the subject. The comparables have improvement assessments ranging from \$14,016 to \$45,447 or from \$5.15 to \$13.85 per square foot of living area. The subject property has an improvement assessment of \$32,138 or \$12.39 per square foot of living area, which falls within the range established by the appellant's own suggested comparables. After considering any necessary adjustments to the comparables for any differences when compared to the subject, the Board finds the subject's improvement assessment is well supported and no reduction is warranted. As a result, the Board finds the subject's improvement assessment is supported and no reduction in the subject's assessment is warranted.

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<sup>4</sup> The Board finds the appellant did not raise any legal arguments or submit a legal brief in this matter.

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 appellant 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 appellant has failed to prove by clear and convincing evidence that the subject property's assessed valuation was not uniform. 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.

The Board further finds that there is no factual dispute that 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 07-03057.001-R-1. The record is also clear that the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$39,702 based on an agreement reached by the parties that was supported by the evidence submitted by the parties. The Board finds Section 16-185 of the Property Tax Code is controlling in this matter. Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in pertinent 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** [Emphasis Added] 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).

Pursuant to the foregoing provision of Section 16-185 of the Property Tax Code, the Property Tax Appeal Board finds that the prior year's decision "**shall**" be carried forward to the subsequent year, subject only to equalization. The record disclosed the Property Tax Appeal Board issued a "decision"<sup>5</sup> "lowering the assessment" of the subject parcel which is "a residence occupied by the owner" for the 2007 assessment year. The Board further finds this record shows that 2007 and 2008 are within the same general assessment period. Furthermore, the record contains no evidence indicating the subject property sold in an arm's-length transaction subsequent to the Board's decision or that the decision of the Property Tax Appeal Board was reversed or modified upon review. The Board finds the Mason

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<sup>5</sup> See Tazewell County Board of Review v. Property Tax Appeal Board, 322 Ill.App.3d 949 (3<sup>rd</sup> Dist. 2001) regarding "decisions" of the Board.

County Assessment Officials followed the statutory provisions as outlined in Section 16-185 of the Property Tax Code (35 ILCS 20/16-185) in determining the subject's correct assessment for the 2008 assessment year.

Having considered the statutory provision and the evidence, the Board further finds, in accordance with court precedent, that "[t]he only authority and power placed in the [Property Tax Appeal] Board by statute is to receive appeals from decisions of Boards of Review [citation omitted], make rules of procedure [citation omitted], conduct hearings [citation omitted], and make a decision on the appeal [citation omitted]. That is all. ... There are no other prerogatives, powers, or authority accorded to the Board. It is fundamental that an administrative body has only such powers as are granted in the statute creating it. No citation of authority on this point is necessary." Thompson v. Property Tax Appeal Board, 22 Ill.App.3d 316, 322 (2<sup>nd</sup> Dist. 1974). "Finally, where the authority of an administrative body is in question the determination of the scope of its power and authority is a judicial function, not a question to be finally determined by the administrative agency itself. [citation omitted]." Geneva Community Unit School Dist. No. 304 v. Property Tax Appeal Board, 296 Ill.App.3d 630, 633 (2<sup>nd</sup> Dist. 1998). For these reasons, the Property Tax Appeal Board finds it is bound by the terms of Section 16-185 of the Property Tax Code and has no authority to circumvent this provision of the Code as requested by the appellant in this appeal based on the principals of uniformity as raised by the appellant.

At hearing, appellant's counsel made oral arguments with respect to the Illinois property assessment and tax system, which is grounded in article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes "shall be levied uniformly by valuation as ascertained as the General Assembly shall provide by law." Ill.Const.1970, art IX, §4(a), citing Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228 (1998). The appellant contends that the uniformity clause of the Illinois Constitution does not permit the board of review to arrive at a 2008 assessed valuation of the subject parcel on a different basis than that employed for the other properties located within Mason County. The Board finds appellant's counsel's arguments on this issue are misguided. The Board finds the subject's assessment was not removed from the mass appraisal system nor assessed according to its recent sale price as the subject in Walsh. The Board finds the factual circumstances in this appeal are clearly distinguishable from those in Walsh. The Board finds that the taxpayer appealed the subject property's assessed valuation for the 2007 assessment year, which was ultimately reduced by the Property Tax Appeal Board to \$39,702. For the 2008 assessment year, the Board finds the board of review correctly followed the statutory directives outlined in Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) in determining the subject's 2008 correct assessment. None of these circumstances existed under Walsh.

Docket No: 08-07039.001-R-1

In conclusion, the Board finds that no reduction in the subject's assessment is warranted based on this record.

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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

*J. R.*

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: April 19, 2013

*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.