



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

APPELLANT: Samir El-Khabiry  
DOCKET NO.: 10-01247.001-R-1  
PARCEL NO.: 12-14-376-014

The parties of record before the Property Tax Appeal Board are Samir El-Khabiry, the appellant, and the Winnebago 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 Winnebago County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$8,145  
IMPR.: \$46,156  
TOTAL: \$54,301**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story single-family dwelling of frame construction containing 2,192 square feet of living area. The dwelling was constructed in 2002. Features of the home include an unfinished basement, central air conditioning, a fireplace and a two-car garage. The property has a 29,474 square foot site and is located in Rockford, Rockford Township, Winnebago County.

The appellant appeared before the Property Tax Appeal Board contending the subject property was overvalued and additionally presented a brief in support of various related contentions.<sup>1</sup> In support of this market value argument, the appellant presented comparable sales, argued that the 2010 assessment increase was

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<sup>1</sup> Portions of the appellant's brief raise issues and arguments regarding processes and procedures related to the Winnebago County Board of Review hearing. Those contentions will not be further addressed. As a matter of Board jurisdiction, the Property Tax Code clearly authorizes the Property Tax Appeal Board to determine "the correct assessment of property which is the subject of an appeal." (35 ILCS 200/16-180). See also People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill. App. 3d 316 (2<sup>nd</sup> Dist. 1974) (only authority and power placed in the Board by statute is to receive appeals from decisions of boards of review, make rules of procedure, conduct hearings, and make a decision on the appeal). Thus, any complaints regarding the appeal process before the Winnebago County Board of Review are not relevant and cannot be adjudicated in the instant proceeding by the Property Tax Appeal Board.

excessive as compared to prior year increases and argued that the subject has a drainage ditch in the rear of the property that should afford the property a greater decrease than has been granted for this issue.

In a brief, the appellant contends that the assessing officials have increased the market value of the subject property by about 9% during the last two years, "while the market value of houses sharply declined." To support this contention, the appellant argued that many area homes have been subjected to foreclosure actions which have hurt the market value of the subject such as the sale of appellant's comparable #1. On the other hand, the appellant contends that his comparables #2 and #3 are "better" than the subject dwelling with larger dwelling sizes and larger garages and these properties are located on other streets where foreclosures did not occur.

As to the drainage ditch at the rear of the subject parcel, the appellant contends this feature "brings and accumulates the waste and garbage from the entire division to our backyard." Furthermore, it creates a pond of standing water that lets mosquitoes and rats grow in our backyard. As such, the appellant contends this characteristic negatively affects the market value of the subject "in addition to the health hazards." (See attachments #6 and #7 which includes an aerial photograph of the subject property). The appellant further argued that the subject was the last house to be sold in the subdivision and despite promises by the builder to fix the drainage ditch no remedy has been forthcoming since the purchase.

The appellant also acknowledged that the assessing officials have applied a 25% reduction to the land value of the subject and three additional adjacent properties for the drainage issue. However, the appellant contends "applying the same value of reduction to [the subject] is not fair because the drainage ditch is draining directly in our backyard and none of the other houses [are as severely impacted]." At hearing, the appellant argued that the subject's land is entitled to at least a 50% decrease in assessment due to the drainage issue and the dwelling should received a 5% reduction in value due to this drainage issue.

The appellant also contends that the board of review at the local hearing "overlooked the credible estimate of ZILLOW for our house of \$148,000 compared to the township assessor estimate of \$162,900." (Attachment #8)

In the Section V grid analysis, the appellant submitted information on three comparable sales, which according to the appellant are located in the same neighborhood code as the subject property and which the appellant contends do not have drainage ditches in their backyards. The comparables are described as two-story dwellings of frame construction that range in size from 2,380 to 2,430 square feet of living area. The dwellings are either 3 or 15 years old. Features of the comparables include central air conditioning and a garage ranging

in size from 484 to 710 square feet of building area. The appellant did not report the foundations and/or basement(s) of these comparables. Two of the comparables have a fireplace. These three properties sold from October 2009 to April 2010 for prices ranging from \$136,500 to \$182,000 or from \$56.17 to \$75.74 per square foot of living area, including land.

Based on the foregoing evidence and arguments, the appellant requested a reduction in the subject's total assessment to \$49,333 which would reflect a market value of approximately \$148,000.

On cross-examination, the appellant acknowledged that the drainage ditch was present in the subject's backyard at the time the home was purchased and that the builder promised to fix it before the appellant took possession of the home, but the builder never followed through with any modifications to the ditch. The appellant further articulated that the harm to the subject land due to the drainage ditch is greater than the harm to the neighboring land owners and therefore the value reduction for the subject land should be greater than for the neighboring property owners. The appellant also testified that there are no other area homes with the same drainage ditch situation as the subject.

As to the contention that the 9% increase in the subject's value was inappropriate, the appellant reiterated his contention that from 2007 to 2010 the market was going down in home values, but the assessing officials were going up in their estimates of the value of the subject property.

As to the sales relied upon by the appellant, on cross-examination the appellant testified that he did not enter any of the comparable properties he presented. However, based upon the exterior condition of the properties, he believes they were in the same condition as the subject property. Moreover, each comparable is superior to the subject in size, number of bathrooms, three-car garage amenity and they do not have a ditch.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$54,301 was disclosed. The subject's assessment reflects a market value of \$163,853 or \$74.75 per square foot of living area, including land, when applying the 2010 three year average median level of assessment for Winnebago County of 33.14% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review presented a two-page letter and data gathered by the Rockford Township Assessor. As to the appellant's comparables, the assessor noted that appellant's comparable #1 is a "SW/GOVERNMENT" deed. At hearing, the board of review also contended that the 25% land value reduction done in January 2004 and subsequently carried forward, only subject to multipliers, was appropriate for the drainage ditch issue which has been argued by the appellant herein.

In support of the subject's estimated market value based on its assessment, the assessor presented information on four comparable sales from "the subject's market neighborhood." The assessor further reported that comparables #1, #3 and #4 were located in the subject's subdivision, but comparable #2 was located a mile from the subject in a different subdivision. Board of review comparables #1 and #2 are the same properties as appellant's comparables #2 and #3. The four comparables are improved with two-story dwellings of frame or frame and masonry construction that range in size from 1,624 to 2,403 square feet of living area. The dwellings range in age from 3 to 15 years old. Features of the comparables include unfinished basements, central air conditioning and a two-car garage ranging in size from 400 to 528 square feet of building area. Two of the comparables also have a fireplace. The comparables sold from October 2007 to April 2010 for prices ranging from \$167,000 to \$182,000 or from \$75.63 to \$102.83 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant noted that the board of review's comparables #3 and #4 sold in 2007 and 2008 whereas the valuation date at issue is January 1, 2010 and thus their "comparison [is] unrealistic." At hearing, the appellant argued that the market went down dramatically from 2007 to 2010. As to board of review comparables #1 and #2, the appellant contends these properties are "better than [my] house" in that they are larger in dwelling size, have larger garages and are not located on the subject's street where foreclosures have taken place in 2010. Additionally, none of the board of review's comparables have a drainage ditch in their backyards.

Furthermore, the appellant contends that the subject's "current" 2012 assessment reflects a value that is less than the request made for this 2010 appeal. Also at hearing, the appellant cited the chart on page 8 of the board of review's submission and argued that the estimated value of the comparable dwellings based upon the assessment was less in each case as compared to the actual recent sale prices per square foot of the comparables, but the same was not true for the subject.<sup>2</sup>

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.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property

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<sup>2</sup> In essence, the appellant at hearing raised a new argument which will not be further addressed herein. Parties are prohibited from raising new claims which were not presented in their evidentiary filings prior to hearing. (35 ILCS 200/16-180).

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 (3<sup>rd</sup> Dist. 2002); 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

In support of the overvaluation argument the appellant submitted attachment #8, consisting of five pages, from the Zillow.com website indicating the subject had a "Zestimate®" of \$148,000. The Property Tax Appeal Board gives this evidence no weight. First, there was no indication on the report, other than the date it was printed of May 15, 2010, as to the effective date of the estimate of value. Second, the report did not have a definition of market value that was used in the report. Third, there was no information with respect to the credentials or qualifications of the person or persons providing the "Zestimate®" of value. Fourth, there was no data such as a description of the comparable sales and the sale dates that were used to establish the "Zestimate®" of value. Without this information the Property Tax Appeal Board cannot determine the reliability and validity of the estimate of value.

The appellant vehemently argued for a 50% reduction in the subject's land value and a 5% reduction in the subject's dwelling value due to the existence of a drainage ditch at the back of the subject parcel. The appellant testified that there were no comparables with a similar drainage ditch situation to the subject so, therefore, the appellant provided no market data to support the requested value reduction(s) due to the drainage ditch. Simply based upon the existence of the ditch, the appellant argues that the subject property is less valuable. In light of the evidence presented, the Property Tax Appeal Board has given these arguments little merit as the appellant failed to present any substantive evidence indicating the subject's estimated market value was incorrect due to the presence of this drainage ditch.

Specifically, the record contains no market evidence to support the appellant's claim regarding the purported loss in value, if such loss exists, due to the existence of the drainage ditch. Besides his theory that the ditch impacts the value of the subject in the marketplace, the Board finds the appellant provided no information to support the argument in general or any specific evidence of what that lower value should be based on this argument. A mere theory and claim of reduced value by the appellant without more evidentiary support is insufficient evidence of an impact on market value. Thus, the Board finds the appellant failed to present any substantive evidence indicating the subject's market value was impacted by the presence of the drainage ditch greater than the 25% reduction already granted to the subject parcel. The Property Tax Appeal Board recognizes the appellant's premise that the subject's value may be affected due

to the existence of the drainage ditch, however, without credible market evidence showing the subject's total assessment was not reflective of fair market value, the appellant has failed to show the subject's property reduced value due to the drainage ditch was insufficient.

The appellant also argued that the 9% increase over the prior two year period in the estimated market value of the subject property was excessive. Again, the appellant provided no substantive market evidence to support this assertion. Moreover, the issue before the Property Tax Appeal Board is the correct assessment of the subject property as of January 1, 2010, not the changes in value over time.

In support of their respective positions, the parties submitted a total of five sales for the Board's consideration. The Board has given reduced weight to board of review comparables #3 and #4 as these two sales occurred less proximate in time to the assessment date of January 1, 2010 than the other sales in the record. The Board finds the remaining three sales comparables submitted by both parties are most similar to the subject in location, size, style, exterior construction, features and/or age. These properties also sold most proximate in time to the assessment date at issue.

Due to the similarities to the subject and proximity in date of sale, these comparables received the most weight in the Board's analysis. The three comparables sold for prices ranging from \$136,500 to \$182,000 or from \$56.17 to \$75.74 per square foot of living area, including land. The subject's assessment reflects a market value of \$163,853 or \$74.75 per square foot of living area, including land, which is within the range established by the best comparable sales in this record. While the appellant argued that the two slightly larger comparables that he presented were superior to the subject, it should be noted that accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. Thus, the subject dwelling that contains 2,192 square feet of living area and has an estimated market value of \$74.75 per square foot of living area, including land, based upon its assessment is actually supported by the two comparables that are slightly larger and sold for \$75.63 and \$75.74 per square foot of living area, including land.

Based on this record, the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction in the subject's assessment is not justified.

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*

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Chairman

*K. L. Fern*

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Member

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Member

*Mario Morris*

\_\_\_\_\_  
Member

*[Signature]*

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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: August 23, 2013

*Allen Castrovillari*

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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.