



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

APPELLANT: Marta & Michael Keane  
DOCKET NO.: 10-01570.001-R-1  
PARCEL NO.: 02-31-127-001

The parties of record before the Property Tax Appeal Board are Marta & Michael Keane, the appellants; and the Kendall 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 **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$25,140  
**IMPR.:** \$93,296  
**TOTAL:** \$118,436

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the Kendall County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject property consists of a part one-story and part two-story dwelling of frame construction with 3,332 square feet of living area.<sup>1</sup> The dwelling was constructed in 1989. Features of

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<sup>1</sup> During the hearing appellants' argued that the subject property contained 3,171 square feet of living area but was being assessed at 3,571 square feet of living area. An agreement was reached by both parties to allow the

the home include an approximately 1,800 square foot basement with a reported 1,300 square feet of finished area, central air conditioning, a fireplace and a 600 square foot three-car garage. The property has a 1.38 acre site and is located in Plano, Bristol Township, Kendall County.

Marta and Michael Keane appeared before the Property Tax Appeal Board contending overvaluation and assessment inequity in the improvement as the bases of the appeal. In support of this argument the Keanes' submitted an appraisal of the subject property prepared by Lisa Eklove, a State Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to provide testimony and be cross examined regarding the appraisal methodology and the final value conclusion. Using the cost approach and the sales comparison approach to value, the appraiser estimated subject property had a market value of \$325,000 as of April 13, 2010.

In support of the equity argument, the appellants submitted four comparables located from 1.15 to 1.34 miles from the subject property. The comparables are improved with two-story dwellings of frame or brick and frame exterior construction and were built from 1990 to 2001. Features include central air conditioning, a fireplace and a three or four-car garage. Three comparables have a full basement and one comparable has a crawl space foundation. The dwellings range from 3,600 to 4,640 square feet of living area and improvement assessments that range from \$91,131 to \$115,073 or from \$23.51 to \$27.13 per square foot of living area.

At the hearing the board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board reserved ruling.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$142,608. The subject's assessment reflects a market value of \$427,995 or \$134.72 per square foot of living area, including land, when using the 2010 three year average median level of assessments for Kendall County of 33.32%. The subject has an improvement assessment of \$117,468 or \$35.25 per square foot of living area.

Appearing on behalf of the board of review was Assistant State's Attorney, David Berault and the Chief County Assessment Officer

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township assessor's office interior access to re-measure the subject property based on an alleged error in the square footage of the entrance area.

and Clerk of the Board of Review, Andy Nicoletti. Berault called Nicoletti as a witness.

The board of review submitted a report discussing both parties' evidence which was prepared by Nicoletti.

Nicoletti testified the board of review submitted information on two sale comparables. These comparables are located across the river and ±5 miles from the subject property. The comparables are improved with two-story dwellings of brick and frame exterior construction and are 16 or 9 years old, respectively. Features include a full unfinished basement, central air conditioning, a fireplace and a 736 or 748 square foot garage. The comparables contain sites of 1.14 or 1.16 acres of land area. The dwellings have 3,988 or 3,889 square feet of living area and sold in November 2010 and May 2009 for prices of \$460,000 and \$435,000 or for \$128.97 and \$146.43 per square foot of living area, including land, respectfully. The comparables have improvement assessments of \$108,484 and \$119,736 or \$27.20 and \$30.79 per square foot of living area.

In rebuttal, the appellants' submitted correspondence regarding the board of review's evidence.

#### **Conclusion of Law**

The appellants' argued in part unequal treatment in the assessment process or a lack of uniformity in the subject's improvement assessment. 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 the appellants met this burden.

With respect to the subject's improvement assessment, the record contains six suggested assessment comparables for the Board's consideration. The Board gave less weight to the appellants' comparables #1 and #4 based on considerably larger dwelling size and/or foundation when compared to the subject. The Board gave less weight to the board of review comparables based on location when compared to the subject. The Board finds comparables #2 and #3 submitted by the appellants are more similar to the subject in design and features even though they are slightly

larger in size than the subject property. These comparables have improvement assessments of \$91,131 and \$93,913 or \$23.51 and \$26.09 per square feet living area. The subject property has an improvement assessment of \$117,468 or \$35.25 per square foot of living area, which is greater than the most similar comparables contained in the record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's assessment is excessive and a reduction is warranted.

The appellants also contend 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 must be proved by a preponderance of the evidence. 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 of review objected to the appraisal submitted by the appellants contending the appraiser was not present to be cross-examined. The Board hereby sustains the objection in part. The Board finds the appellant's appraiser was not present at the hearing to provided direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1<sup>st</sup> Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. The Board gives the conclusion of value contained in the appraisal little weight. The appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value.

However, the Board will examine the raw sales data contained in this record, including the sales in the appellant's appraisal.

After considering the comparable sales in this record, the Board finds no further reduction warranted based on over valuation.

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. F...*

Member

*Richard A. ...*

Member

*Mark ...*

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: February 20, 2015

*A. ...*

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.