



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

APPELLANT: Gregory Moran & William Trinker  
DOCKET NO.: 11-01857.001-R-1  
PARCEL NO.: 03-18-152-001

The parties of record before the Property Tax Appeal Board are Gregory Moran & William Trinker, 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: \$29,000  
IMPR: \$107,692  
TOTAL: \$136,692**

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 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 two-story dwelling of frame and masonry construction with 2,834 square feet of living area. The dwelling was constructed in 1995. Features of the home include a full basement, central air conditioning, a fireplace and a three-car garage of 600 square feet of building area. The

property has a 1.17-acre site and is located in West Dundee, Dundee Township, Kane County.

The appellants contend assessment inequity as the basis of the appeal with regard to both the land and improvement assessments of the subject property. In support of these arguments the appellants submitted information on four equity comparables. One comparable is on the same street as the subject and the remaining three properties are located 3-miles from the subject. The comparable parcels range in size from 1.11 to 2.86-acres of land area and are improved with two-story frame and masonry dwellings that were built between 1991 and 1997. The homes range in size from 2,992 to 3,780 square feet of living area and feature full basements which are partially finished, central air conditioning, a fireplace and a three-car garage. These parcels have land assessments ranging from \$0.29 to \$0.59 per square foot of land area. The comparables have improvement assessments ranging from \$24.72 to \$34.65 per square foot of living area. Based on this evidence, the appellants requested a land assessment reduction to \$29,000 or \$0.57 per square foot of land area and an improvement assessment reduction to \$95,000 or \$33.52 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$152,046. The subject property has a land assessment of \$36,050 or \$0.71 per square foot of land area and an improvement assessment of \$115,996 or \$40.93 per square foot of living area.

In support of its contention of the correct assessments of the subject's land and improvement, the board of review submitted a memorandum from Michael Bielik, Dundee Township Assessor, along with a grid analysis pointing out differences between the subject and the appellants' comparables, a grid analysis of three equity comparables and two maps depicting the location of the subject and each parties' comparables.

As to the appellants' comparables, the township assessor pointed out differences in dwelling size and location between the subject and several of the comparables. In addition, three of the comparables do not have a brick patio like the subject. None of the comparables have a finished basement whereas "it has come to the attention of the Assessor that the Appellant [sic] has a full finished basement" although the property is not being charged for this feature. The assessor further noted that the subject property was purchased in June 2011 for \$485,000.

To support the assessment, the township assessor presented a grid of three comparables, two of which are located on the same street as the subject property with the third comparable being located 2.8-miles from the subject. The parcels range in size from .82 to 2.42-acres of land area and are improved with a 1-story, a 1.5-story and a 2-story dwelling, respectively, of frame or frame and masonry construction. The homes were built between 1973 and 1993 and range in size from 2,742 to 3,091 square feet of living area. Each home has a basement, two of which include finished area. Each home has central air conditioning and one or two fireplaces. The homes have garages of either 768 or 939 square feet of building area. Two of the comparables have in ground pools and one also has a bathhouse. These comparables have land assessment ranging from \$0.34 to \$1.30 per square foot of land area and improvement assessments which range from \$40.31 to \$43.78 per square foot of living area. Based on this data, the board of review requested confirmation of the subject's land and improvement assessments.

In rebuttal, the appellants "acknowledge that we paid significantly too much for this property," but they further argue that as an appeal based on assessment equity, this is an irrelevant fact. In part, the appellants reiterated why they believe their comparables are best and further note having attended a clinic hosted by Mark Armstrong, Kane County Supervisor of Assessments, to learn about the selection of suitable properties.

With citation to Exhibit 2 and 3, the appellants contend the comparables they presented have finished basements, although that feature may not be recorded by the assessing officials, and display photographs in those exhibits reflective of an inground pool with brick patio feature. While acknowledging that appellants' comparable #2 has an extensive brick patio and outdoor entertaining space with a waterfall, pool and hot tub, the appellants assert this comparable although larger than the subject "continues to support our point that our EAV should at least be brought in line with these homes." As to location, the appellants contend other properties in the subject's subdivision of Binnie Woods are located in Rutland Township, not Dundee Township and "the Assessor's Office would **NOT** allow us to use other comparable homes [outside the township]. . . ." [Emphasis in original]. As to the subject's full finished basement (see also Exhibit 4), the appellants note the property record card for the subject includes permit information "finished basement" dated March 21, 2003. Further, as to the subject's basement, the appellants contend "we believe there has been water damage

at some point in time, and work needs to be done" at a reported cost of \$25,000 to \$35,000 for a professionally finished basement.

As to the board of review's comparables, the appellants note two homes were built in the 1970s. The appellants also assert the board of review's photograph of its comparable #1 is of a different home and that comparable #1 is actually a "completely remodeled home with five car garage (three with the house and two car detached garage) along with an inground pool, cement patio surrounding the pool, detached building with the pool, two sun rooms, decks galore, pergola, and a lot (land size) more than twice the size [of the subject]." Lastly, the appellants criticize the board of review's comparable #3 for location on a private road with a private lake (Exhibit 6).

### **Conclusion of Law**

The taxpayers contend assessment inequity as the basis of the appeal with regard to both the land and improvement assessments. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is warranted.

As to the land inequity argument, the parties presented a total of seven parcels to support their respective positions. The Board has given reduced weight to board of review comparable #3 as this property has .86 of an acre of land area as compared to the subject's 1.17-acres. The remaining six comparable parcels range in size from 1.11 to 2.86-acres of land area and have land assessments ranging from \$0.29 to \$0.59 per square foot of land area. The subject has a land assessment of \$0.71 per square foot of land area which is above the range of the most similar comparables on this record. Based on this evidence, the Board finds that the appellants have established land assessment inequity and a reduction in the subject's land assessment commensurate with the appellants' request is warranted.

As to the improvement inequity argument, the parties presented a total of seven comparables to support their respective positions before the Board. The Board has given reduced weight to board of review comparables #1 and #3 due to the ages of these homes, having been constructed in the 1970s whereas the subject was built in 1995. In addition board of review comparable #3 is a 1-story dwelling which differs from the subject in design. The Board has also given reduced weight in its analysis to appellants' comparables #2 and #3 as each of these homes are significantly larger than the subject dwelling. 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 of 2,834 square feet would be expected to have a greater per-square-foot assessment than these substantially larger dwellings.

The Board finds the best evidence of assessment equity to be appellant's comparables #1 and #4 along with board of review comparable #2. These three comparables had improvement assessments that range from \$30.63 to \$40.31 per square foot of living area. The subject's improvement assessment of \$40.93 per square foot of living area falls above the range established by the best comparables in this record and does not appear justified when giving due consideration to the subject's dwelling size as compared to the board of review's comparable #2. Based on this record the Board finds the appellants did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is justified.

As to the June 2011 purchase price of the subject property, a mere six months after the assessment date at issue of January 1, 2011, the Board acknowledges that there should also be market value considerations, if such credible evidence exists. The Supreme Court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a

grossly less value or a grossly higher value.  
[citation.]

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test.[citation.] Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the Supreme Court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21. The Board finds in this appeal, however, that despite pointing to the recent purchase price of the subject property, the board of review did not provide any market value evidence to support its inference that the subject property has been uniformly assessed with properties that carry a similar market value.

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.



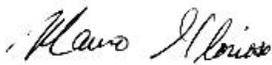
Chairman



Member



Member



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: May 21, 2014



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.