



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

APPELLANT: Emmett Malloy
DOCKET NO.: 11-02036.001-C-1
PARCEL NO.: 12-03-408-008

The parties of record before the Property Tax Appeal Board are Emmett Malloy, the appellant, by attorney Margaret E. Graham, of McCracken, Walsh & de LaVan in Chicago; and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$92,516
IMPR.: \$60,000
TOTAL: \$152,516

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant 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 one-story commercial building of brick construction with 12,165 square feet of building area. The subject was constructed in 1953. Features of the subject

include a full basement with central air conditioning. The property has a 13,500 square foot site and is located in Geneva, Geneva Township, Kane County.

The appellant contends by contention of law that the subject's assessment should be reduced based on an agreement with the township assessor related to severe damage to the property. In support of this argument the appellant submitted information on the agreement.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$152,516. The subject's assessment reflects a market value of \$458,971 or \$37.73 per square foot of building area, land included, when using the 2011 three year average median level of assessment for Kane County of 33.23% as determined by the Illinois Department of Revenue. In rebuttal, the board of review did not approve of the agreement signed by the assessor.

In support of its contention of the correct assessment the board of review submitted information on four comparable sales.

Conclusion of Law

The appellant contends the township assessor's stipulation should be enforced as to the subject property.

The Property Tax Appeal Board finds the board of review, unlike the local assessors, has broad authority to correct real property assessments from taxpayers appealing individual assessments that were originally established by local assessors, including considering the sale of the individual property under appeal. Section 16-30 of the Property Tax Code Provides:

Board of review meetings. In counties with less than 3,000,000 inhabitants, the board of review may meet at times it deems necessary for supervising and directing the clerk in the duties prescribed in this Article, and shall meet on or before the first Monday each June to revise the assessment of property. **At the meeting, the board of review upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just. . . .**

(35 ILCS 200/16-30) (emphasis added).

Section 16-55 of the Property Tax Code provides in part:

Complaints. (a) **On written complaint that any property is overassessed or underassessed, the board shall review the assessment, and correct it, as appears to be just,** but in no case shall the property be assessed at a higher percentage of fair cash value than other property in the assessment district prior to equalization by the board or the Department. . . .
(e) **The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment,**

35 ILCS 200/16-55) (emphasis added).

The Board finds the Property Tax Code prescribes different responsibilities to assessors than the boards of review. In limited summary, the board of review, upon written complaint or upon its own motion, shall review the assessment, and correct it, as appears to be just. Thus, the Board finds there is no basis to mandate the stipulation proposed by the township assessor.

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 finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of market value to be the board of review's comparable sales. The comparables sold for prices ranging from \$80.36 to \$122.22 per square foot of building area, including land. The subject's assessment reflects a market value of \$37.73 per square foot of building area, including land, which is below the range established by the comparable sales in this record. Based on this evidence the Board finds 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.



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: October 24, 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.