



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

APPELLANT: Thomas Ziemba  
DOCKET NO.: 11-02110.001-R-1  
PARCEL NO.: 06-35-476-025

The parties of record before the Property Tax Appeal Board are Thomas Ziemba, the appellant, 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: \$12,257  
IMPR.: \$38,698  
TOTAL: \$50,955**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a one-story single-family dwelling of frame construction that contains 1,092 square feet of living area.<sup>1</sup> The dwelling was constructed in 1959. Features of the home include a full unfinished basement, central air conditioning, and an oversized two-car garage of 1,104 square feet of building area. The property has a .24-acre site and is located in South Elgin, Elgin Township, Kane County.

The appellant appeared before the Property Tax Appeal Board contending that the subject property was overvalued. In support of this argument, the appellant submitted limited information on four comparable sales that were located from a block to 14 blocks from the subject property. The appellant testified that he selected comparables based on internet research and knowledge of area sales selecting homes on the east side of town, like the subject, that were also similar to the subject.

The four comparables are described as a two-story<sup>2</sup> and three, one-story dwellings of brick or frame construction. Three of the

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<sup>1</sup> While the appellant reported a dwelling size of 1,025 square feet, when asked about the calculation at hearing the appellant verbally accepted the dwelling size reported by the assessing officials of 1,092 square feet.

<sup>2</sup> The board of review's submission indicated this "two-story" comparable was actually a one-story with a finished attic.

comparables range in size from 988 to 1,472 square feet of living area; no building size was reported for comparable #1 by the appellant, however, the board of review's evidence included a grid reiterating the appellant's four comparable sales which indicated that appellant's comparable #1 contains 1,173 square feet of living area. As reported in the board of review's submission, the appellant's comparable homes were constructed from 1940 to 1965. Comparable #4 is located in the same subdivision as the subject property and the appellant acknowledged this property was sold as a result of a foreclosure action. Features of the comparables include either a full or partial basement, one of which includes finished area. Three of the comparables have central air conditioning and one has a fireplace. Each comparable has a garage ranging in size from 460 to 576 square feet of building area. These comparables have sites ranging in size from .16 to .19 of an acre of land area. These properties sold from September 2010 to June 2011 for prices ranging from \$103,500 to \$126,000 or from \$85.60 to \$121.46 per square foot of living area, including land.

Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$39,038 which would reflect a market value of approximately \$117,114 or \$107.25 per square foot of living area, including land.

The board of review submitted its "Board of Review - Notes on Appeal" wherein the subject's total assessment of \$50,955 was disclosed. The subject's assessment reflects a market value of \$153,340 or \$140.42 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for Kane County of 33.23% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

In response to the appellant's data, the board of review submitted a letter from the Elgin Township Assessor's Office which pointed out differences between the subject and the comparables suggested by the appellant. The township assessor also presented a grid analysis of the appellant's comparables as noted above along with a grid analysis of six comparable sales to support the assessment of the subject property with a location map depicting appellant's comparables #1, #2 and #3 and the assessor's comparables displaying their location(s) in relationship to the subject.

At the hearing, the board of review called Diane Schuchert from the Elgin Township Assessor's Office for testimony. She stated that appellant's comparable #4, while close to the subject, was located next to railroad tracks and this property was on the market for 55 days after having been foreclosed upon. Also appellant's comparable #1 was on the market for 444 days and was sold as a cash deal. In addition, the witness noted that comparable #1 is on a busy street. She further noted that both appellant's comparables #2 and #3 were sold "as-is" and comparable #3 also sold after being on the market for 9 days.

The township official concluded her testimony by opining that the appellant's comparables would require "some upward adjustment."

In support of the subject's assessment, the board of review presented information on six comparable sales where only the assessor's comparable #2 is close to the subject as depicted on the map. In testimony, Schuchert noted that the subject has an unusually larger garage. Based upon the questioning by the board of review representative, Schuchert focused on her comparables #1 and #4 as being the best comparable sales to support the subject's assessment.

The six comparables presented by the board of review are improved with one-story dwellings of frame or brick construction that range in size from 894 to 1,380 square feet of living area. The dwellings were constructed from 1959 to 1976. None of these comparables is located in the same subdivision as the subject property. Five of the comparables have a full basement; the data provided does not indicate if any of the basements have finished area(s). The data also fails to indicate if the homes have central air conditioning. Two of the comparables have a fireplace and each has a garage ranging in size between 293 and 720 square feet of building area. The comparables have sites ranging in size from .19 to .33 of an acre of land area. The comparables sold from February 2010 to August 2011 for prices ranging from \$135,000 to \$210,000 or from \$141.30 to \$155.30 per square foot of living area, including land.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In response to the board of review's evidence, the appellant noted that he focused his analysis on the total sale price of the comparables as compared to the estimated market value of the subject dwelling based on its assessment. He did not analyze the sales based on a price per square foot consideration.

He also testified that the subject does have an oversized garage that has space in the front for two cars and that a "back wall" was knocked out to extend the garage in the rear and to create additional storage space.

In rebuttal at the hearing, the appellant noted that the subject property was about 2/3 to 3/4 of a block from the railroad tracks and his comparable #4 which is near the railroad tracks and while that property may have some greater impact from the rail traffic, the subject similarly hears much train noise and activity also.

As part of the appellant's closing argument, he cited a two-bedroom home located directly behind the subject that had been vacant for about a year and a half and reportedly sold for \$60,000 to another area property owner who thereafter turned the property into a rental home.

At the hearing in response to this aspect of the appellant's closing argument, the appellant was orally advised by the Hearing Officer that new evidence cannot be presented in support of the appellant's claims at the time of hearing. (86 Ill.Admin.Code §1910.67(k)(1)).

After hearing the testimony and reviewing 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 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.

First, the Property Tax Appeal Board takes notice that Public Act 96-1083 amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

Section 16-183 of the Property Tax Code provides:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

Furthermore, the Property Tax Appeal Board finds the effective date of these statutes is relevant to the assessment date at issue in this appeal of January 1, 2011.

The parties submitted a total of ten comparable sales to support their respective positions before the Property Tax Appeal Board. In light of the foregoing changes to the Property Tax Code, the Board has given little weight to the arguments of the board of

review noting that appellant's comparables #3 and #4 were a short sale and a foreclosure, respectively.

In examining the ten suggested sale comparables, the Board has given reduced weight to appellant's comparable #1 and to board of review comparable #6 due to their superior brick exterior construction when compared to the subject's frame exterior construction. Additionally, appellant's comparable #1 has a finished attic which makes the home different in design from the subject. Also, based on differences in dwelling size when compared to the subject, the Board has given reduced weight to both board of review comparables #2 and #6 which are also newer dwellings that were built in 1976 and 1978 when compared to the subject that was built in 1959.

The Board finds the remaining seven comparables presented by both parties were most similar to the subject in location, size, style, exterior construction, features, age and/or land area. These properties also sold proximate in time to the assessment date at issue of January 1, 2011. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These seven comparables sold for prices ranging from \$103,500 to \$164,000 or from \$85.60 to \$155.30 per square foot of living area, including land. The subject's assessment reflects a market value of \$153,340 or \$140.42 per square foot of living area, including land, which is within the range established by the most similar comparable sales in this record and appears justified giving due consideration to the subject's substantially larger garage feature when compared to each of these most similar comparables.

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.

*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: December 20, 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.