



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

APPELLANT: Donald Fuller  
DOCKET NO.: 11-03995.001-R-2  
PARCEL NO.: 09-01-218-021

The parties of record before the Property Tax Appeal Board are Donald Fuller, the appellant, by attorneys Michael E. Crane and Robert M. Marsico, of Crane & Norcross, in Chicago, and the DuPage 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 DuPage County Board of Review is warranted as the appeal is hereby dismissed. The correct assessed valuation of the property is:

**LAND:** \$178,830  
**IMPR.:** \$592,580  
**TOTAL:** \$771,410

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a part 2-story, part 1-story and part three-story single family dwelling of brick exterior construction with 5,600 square feet of living area. The dwelling was constructed in 2004. Features of the home include a full basement with finished area, central air conditioning, six fireplaces and a 778 square foot garage. The property has an 18,209 square foot site and is located in Hinsdale, Downers Grove Township, DuPage County.

The appellant contested the subject's assessment for the 2011 tax year based on assessment equity. In support of this argument, the appellant through legal counsel submitted a grid analysis of three equity comparables. The appellant also

submitted a copy of the final decision issued by the board of review establishing a total assessment of \$771,410. As part of the appeal petition, the appellant requested the subject's assessment be reduced to \$646,713, a difference of \$124,697.

By letter to the parties dated June 11, 2014, the Property Tax Appeal Board set the matter for hearing in accordance with the request for an in-person hearing by both the appellant and the board of review for 2:45 p.m., on August 11, 2014, at the offices of the DuPage County Board of Review in Wheaton, Illinois. The Property Tax Appeal Board further notified the appellant that pursuant to Section 1910.98(a) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.98(a)) if the appellant was seeking a change in assessment of \$100,000 or more in assessed valuation, the appellant must provide a court reporter at his own expense.

At the time and date of the scheduled hearing, the appellant's counsel, Mr. Marsico, appeared before the Property Tax Appeal Board. Appearing on behalf of the DuPage County Board of Review was board member Charles Van Slyke and Joni Gaddis, Chief Deputy Assessor of Downers Grove Township. The appellant's counsel advised that the services of a court reporter had not been procured to record and transcribe the proceeding as required by Section 1910.98(a) of the rules of the Property Tax Appeal Board and the terms of the Property Tax Code. (86 Ill.Admin.Code §1910.98(a)).<sup>1</sup> At that time, counsel also orally offered to voluntarily amend the petition to a request below the \$100,000 threshold. Counsel was advised by the Administrative Law Judge that such a reduction in the appellant's claim was not allowable at this time. (See County of Coles v. Property Tax Appeal Board, 275 Ill.App.3d 945, 657 N.E.2d 673 (4<sup>th</sup> Dist. 1995)). Due to the fact that no court reporter was present, the Administrative Law Judge announced that this matter would be dismissed.<sup>2</sup>

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<sup>1</sup> Section 16-190(a) of the Property Tax Code provides in part:

The Property Tax Appeal Board shall keep a record of its proceedings and orders and the record shall be a public record. In all cases where the contesting party is seeking a change of \$100,000 or more in assessed valuation, the contesting party must provide a court reporter at his or her own expense. The original certified transcript of such hearing shall be forwarded to the Springfield office of the Property Tax Appeal Board and shall become part of the Board's official record of the proceeding on appeal. . . . [Emphasis added.] (35 ILCS 200/16-190(a)).

<sup>2</sup> Given the desire of the appellant to place an objection on the "record," a recording was made of the appellant's objection and the board of review's response.

Counsel for the appellant placed an objection to dismissal on the record as to not having a court reporter present for the hearing, in pertinent part, asserting that there was a lack of cost effectiveness to retaining a court reporter and then having the matter transcribed. Moreover, while counsel acknowledged that the appellant's reduction request exceeded \$100,000 in assessed value, counsel further argued that the tax savings of under \$4,500 based on the best comparable in the record in terms of cost effectiveness to have a taxpayer heard to find equity and uniformity in the assessment process is simply not affordable.

In response, the board of review's representative requested that the Property Tax Appeal Board abide by its existing rules regarding the necessity of a court reporter for this proceeding.

The Property Tax Appeal Board finds that Section 1910.98(a) of the rules of the Property Tax Appeal Board provides in part that:

In all cases where the contesting party is seeking a change of \$100,000 or more in assessed valuation, the contesting party must provide a court reporter at his own expense... 86 Ill.Admin.Code §1910.98(a).

This rule of the Board mirrors the requirement set forth in Section 16-190(a) of the Property Tax Code governing the record of proceedings before the Property Tax Appeal Board mandating, in pertinent part, that "where the contesting party is seeking a change of \$100,000 or more in assessed valuation, the contesting party must provide a court reporter at his or her own expense." (35 ILCS 200/16-190(a)).

In addition, Section 1910.69(d) of the rules of the Property Tax Appeal Board provides in part that:

Failure of the contesting party to furnish a court reporter as required by Section 1910.98(a) of this Part shall be sufficient cause to dismiss the appeal... 86 Ill.Admin.Code §1910.69(d).

Additionally, Section 1910.69(a) of the rules of the Property Tax Appeal Board provides as follows:

Failure of any party to comply fully with all rules and/or specific requests of the Property Tax Appeal Board as provided in Sections 1910.30, 1910.40, 1910.60, 1910.65, 1910.67, 1910.68 and 1910.73 of this Part shall result in the default of that party. 86 Ill.Admin.Code §1910.69(a).

The Board finds the appellant requested a change in the assessment in excess of \$100,000. The amount of change sought is fixed at the instant a petition is filed with the Property Tax Appeal Board and is the difference between the final decision of the board of review and the proposed assessment request set forth by the contesting party on the petition. County of Coles v. Property Tax Appeal Board, 275 Ill.App.3d 945, 657 N.E.2d 673 (4<sup>th</sup> Dist. 1995). Thus, in light of the case law, the Board finds that the appellant could not amend the appeal petition at the time of the hearing to avoid the requirement to provide a court reporter for the proceeding. The notice of the scheduled hearing was made in accordance with Section 1910.67 of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.67). The Board finds the letter dated June 11, 2014, notified the appellant that a hearing would be held on August 11, 2014. The hearing notice letter stated the time, location and, that pursuant to Section 1910.98(a) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.98(a)), the appellant was further informed of the requirement to engage a court reporter for the hearing.

As established by the statements of counsel at the hearing, the Board further finds that the appellant knowingly chose not to procure the services of a court reporter as required by Section 1910.98(a) of the rules of the Property Tax Appeal Board and Section 16-190 of the Property Tax Code. (86 Ill.Admin.Code §1910.98(a); 35 ILCS 200/16-190) The Board further finds that pursuant to Section 1910.69(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.69(d)), failure to furnish a court reporter as required in Section 1910.98(a) is sufficient cause for dismissal of the appeal. Finally, as set forth in counsel's objection stated at the time and date of the scheduled hearing, the Board finds that appellant's counsel provided no good cause or reason for the failure to have a court reporter present at the scheduled hearing beyond a calculated cost/benefit analysis and thus a determination by counsel/the appellant to not supply the required court reporting services for this appeal hearing.

Based on the aforementioned analysis and pursuant to Sections 1910.69(a) and (d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.69 (a) & (d)) along with the requirements of the Property Tax Code in Section 16-190(a) (35 ILCS 200/16-190(a)), the Property Tax Appeal Board hereby dismisses the appeal and thereby finds no change in the subject's assessment is warranted for 2011.

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. Crit*

Chairman

*K. L. Fan*

Member

*Richard A. Huff*

Member

*Mark A. Lewis*

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: September 19, 2014

*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.