



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

APPELLANT: Frank Soyka  
DOCKET NO.: 12-02366.001-R-1  
PARCEL NO.: 11-11-405-008

The parties of record before the Property Tax Appeal Board are Frank Soyka, the appellant, by attorney Robert J. Masini of Diver, Grach, Quade & Masini, LLP in Waukegan; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$60,223  
**IMPR.:** \$64,231  
**TOTAL:** \$124,454

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Lake County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2012 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 dwelling of frame construction with 2,290 square feet of living area. The dwelling was constructed in 1978. Features of the home include

a partially finished basement,<sup>1</sup> central air conditioning, a fireplace and a 1,176 square foot attached garage. The property has a 76,557 square foot site and is located in Green Oaks, Libertyville Township, Lake County.

The appellant appeared, through counsel, before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$340,000 as of December 31, 2011. The appraiser, Lynn Zwiener, was not present at the hearing for direct and cross-examination regarding the appraisal process and final value conclusion. The appraiser developed the sales comparison approach to value, using four sales, in arriving at a final value conclusion.

Counsel for the appellant argued that the appraiser's adjustment for site value was appropriate due to an acre of the subject's lot is part of a pond, which should be considered non-buildable or surplus land.

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

At the hearing, the board of review's representative objected to consideration of the appraisal since the appraiser was not present to provide testimony and/or be cross-examined with regard to the report.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$124,454. The subject's assessment reflects a market value of \$380,361 or \$166.10 per square foot of living area, land included, when using the 2012 three year average median level of assessment for Lake County of 32.72% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales. The board of review's comparable #3 is the same property as the appellant's appraiser's comparable #2.

The board of review's witness, Libertyville Township Deputy Assessor Mark Doetsch, testified that the lots in the Green Oaks neighborhood are valued on a per lot basis and are not adjusted due to their proximity to the pond.

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<sup>1</sup> The board of review reported the subject has an unfinished basement based on the subject's property record card.

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

Under rebuttal, the appellant's counsel argued that two of the board of review's comparables were upgraded prior to their sale and the third comparable's sale date of July 2013 is not relevant for a 2012 appeal.

### Conclusion of Law

As an initial matter, the Property Tax Appeal Board hereby sustains the objection of the board of review as to hearsay. The Board finds that in the absence of the appraiser at hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appraiser. The Board finds the appraisal report is tantamount to hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2<sup>nd</sup> Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1<sup>st</sup> Dist. 1971). In the absence of the appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusion of \$340,000 as of December 31, 2011 has been significantly diminished.

For this appeal, 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 sales in this record support the subject's assessment.

The parties submitted a total of six sales for the Board's consideration. The Board gave less weight to the appellant's appraiser's comparable #3 due to its sale date occurring greater than 21 months prior to the subject's January 1, 2012 assessment date. Likewise, the Board gave less weight to the board of review's comparable #2 due to its sale date occurring greater than 19 months after the subject's January 1, 2012 assessment date. These sales would lack probative value as to the subject's real estate market value as of the date at issue. In addition, the board of review's comparable #2 is a dissimilar two-story dwelling, unlike the subject. The Board also gave less weight to the board of review's comparable #1 due to its dissimilar crawl-space foundation, when compared to the subject's basement foundation. In addition, this comparable has a significantly smaller dwelling size when compared to the subject. The Board finds the remaining three comparables in this record were most similar to the subject. These properties were relatively similar to the subject in location, design, age, size and features. The comparables had sale dates occurring in August and October of 2011 for prices ranging from \$265,000 to \$402,000 or from \$127.28 to \$164.69 per square foot of living area, including land. The subject's assessment reflects a market value of \$380,361 or \$166.10 per square foot of living area including land, which is within the range of the best comparables in this record on a total market value basis and slightly above the range on a per square foot basis. After considering adjustments to the comparables for differences when compared to the subject, such as the subject's larger lot size, newer dwelling age and larger garage, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is justified and no reduction in the subject's assessment is warranted.

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: July 18, 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.