



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

APPELLANT: Thomas McCleary  
DOCKET NO.: 12-03258.001-R-2  
PARCEL NO.: 09-01-311-003

The parties of record before the Property Tax Appeal Board are Thomas McCleary, the appellant, by attorney George J. Relias of Enterprise Law Group, LLP in Chicago; and the DuPage County Board of Review.<sup>1</sup>

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. The correct assessed valuation of the property is:

**LAND:** \$ 106,990  
**IMPR.:** \$ 384,880  
**TOTAL:** \$ 491,870

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the DuPage 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**

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<sup>1</sup> The Property Tax Appeal Board held a consolidated hearing for Docket Nos. 11-02602.001-R-2 and 12-03258.001-R-2.

The subject property consists of a part two-story, part one-story and part three-story single family dwelling with 4,407 square feet of living area. The dwelling is of frame construction and was built in 2008. Features of the home include a partial finished basement, central air conditioning, four fireplaces and a 693 square foot attached garage. The property has a 13,186 square foot site and is located in Hinsdale, Downers Grove Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel contending assessment inequity with respect to the improvement as the basis of the appeal. In support of this argument the appellant submitted information on three equity comparables. The comparables were improved with dwellings similar to the subject in style that ranged in size from 4,243 to 4,492 square feet of living area. The dwellings were constructed from 1993 to 2012 with comparable #2 having an addition in 2000. Each comparable had a partial or full basement with two being partially finished; comparables #2 and #3 had central air conditioning; each comparable had 2 or 3 fireplaces; and each comparable had a garage ranging in size from 462 to 506 square feet of building area. These properties had improvement assessments ranging from \$196,320 to \$301,530 or from \$43.70 to \$68.37 per square foot of living area.

Relias stated that he selected the comparables and agreed his fee was contingent on the tax savings, the same as in the companion appeal (Docket No. 11-02602.001-R-2). Relias stated that the source of the information used about the comparables were printouts from the Downers Grove Township Assessor's Office, which were submitted. With respect to appellant's comparable #3, Relias did not know what the term "prorate" on the printout meant.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$491,870. The subject property has an improvement assessment of \$384,880 or \$87.33 per square foot of living area.

In support of its contention of the correct assessment the board of review submitted information from the Downers Grove Township Assessor's office which included a grid analysis of the appellant's comparables, a grid analysis of four additional comparables selected by the township assessor and the property record cards for all the comparables.

The board of review called as its witness Joni Gaddis, Chief Deputy Assessor of Downers Grove Township. In rebuttal Gaddis testified appellant's comparables #1 and #2 were constructed in 1993 and 1998 compared to the subject dwelling being built in 2008. She also testified appellant's comparable #1 did not have a finished basement whereas the subject property does. She also testified that appellant's comparable #3 had a partial assessment of 50% as of January 1, 2012 and the assessment was prorated as a complete structure July 12, 2012. Gaddis stated the full assessment on appellant's comparable #3 was \$87 per square foot of building area, rounded.

In support of the assessment the assessor selected four comparables that were similar to the subject in style and ranged in size from 3,118 to 4,432 square feet of living area. These properties were constructed from 2006 to 2008 and had the same neighborhood code as the subject property. Each comparable had a partial or full basement that was finished, central air conditioning, three to five fireplaces and garages that ranged in size from 420 to 780 square feet of building area. Comparable #1 also had a built-in pool and a pool house. These properties had improvement assessments that ranged from \$287,180 to \$411,820 or from \$90.97 to \$97.10 per square foot of living area. Gaddis was of the opinion that comparable #4, with an improvement assessment of \$90.97 per square foot of living area, was most similar to the subject.

Under cross-examination Gaddis agreed that comparable #3 with 3,118 square feet of living area was outside the acceptable range.

#### **Conclusion of Law**

The taxpayer contends assessment inequity as the basis of the appeal. 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 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 assessment equity to be board of review comparables #1, #2 and #4. These comparables were most similar to the subject property in size and age. These properties were also relatively similar to the subject in features with the exception that comparable #1 had a built-in pool and a pool house. These comparables had improvement assessments that ranged from \$90.97 to \$97.10 per square foot of living area. The subject's improvement assessment of \$87.33 per square foot of living area falls below the range established by the best comparables in this record. The Board gave less weight to the appellant's comparables due to age and the fact that comparable #3 had a prorated assessment. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

As an additional point, the Board further finds problematic the fact that appellant's counsel selected the comparables and appeared at the hearing to testify on behalf of his client. The attorney also indicated his fee is contingent on the tax savings, which would seem to impact the objectivity of the attorney as he would have an interest in the tax savings. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion testimony of value or testimony with respect to assessment uniformity for that client's property. Section 1910.70(f) of the rules of the Property Tax Appeal Board provides that:

An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. When an attorney is a witness for the client, except as to merely formal matters, the attorney should leave the hearing of the appeal to other counsel. Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client. 86 Ill.Admin.Code 1910.70(f).

By appearing before the Property Tax Appeal Board as both an advocate and as a witness that selected the appellant's comparables, the appellant's counsel is in violation of this rule.

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

*Mario M. Lino*

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: July 18, 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.