

No. 1-13-2022

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THOMAS G. KING and ROSEMARY B. KING,)	Appeal from the
)	Circuit Court of
)	Cook County.
Plaintiffs-Appellants,)	
)	
v.)	No. 2011 L 50004
)	
ILLINOIS PROPERTY TAX APPEAL BOARD)	
and COOK COUNTY BOARD OF REVIEW,)	Honorable
)	Robert W. Bertucci,
Defendants-Appellees.)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Cunningham and Connors concurred in the judgment.

ORDER

Held: The Illinois Property Tax Appeal Board's findings regarding a property tax assessment for 2006 and 2007 were not against the manifest weight of the evidence where the challenging party provided a list of allegedly comparable properties that were not of a similar size to the subject property. The challenging party also did not indicate the number of bedrooms or total rooms contained in the comparable properties.

¶ 1 Plaintiffs, Thomas G. King and Rosemarie B. King, appeal the decision of the Illinois Property Tax Appeal Board (PTAB) affirming the Cook County Board of Review's (Board) finding that the King's property was not entitled to a property tax assessment reduction in 2006 and 2007 based on a lack of uniformity of assessment.¹ Although the Kings presented four arguments in their opening brief, they only managed to properly preserve one issue for our review: whether the PTAB's findings that the subject property was not entitled to a property tax assessment reduction for 2006 and 2007 based on a lack of uniformity of assessment are against the manifest weight of the evidence. We hold the PTAB's findings regarding the subject property's tax assessment for 2006 and 2007 were not against the manifest weight of the evidence where the Kings, as the challenging party, provided a list of allegedly comparable properties that were not of a similar size to the subject property. The Kings also did not indicate the number of bedrooms or total rooms contained in the comparable properties.

¶ 2 JURISDICTION

¶ 3 On May 21, 2013, the circuit court dismissed the King's complaint for administrative review. On June 19, 2013, plaintiff timely appealed. Accordingly, this court has jurisdiction pursuant to Illinois Supreme Court Rules 301 and 303 governing appeals from final judgments entered below. Ill. S. Ct. R. 301 (eff. Feb.1, 1994); R. 303 (eff. May 30, 2008).

¶ 4 BACKGROUND

¶ 5 The subject property is the King's two-story, masonry-construction, single-family home located at 2745 North Pine Grove Avenue, Lake View Township, neighborhood 63, in Chicago,

¹ Plaintiff Thomas G. King, an attorney, represented himself and Rosemary B. King in this matter.

Illinois. The Kings own the property in joint-tenancy. The property has 2,810 square feet of living area.

¶ 6 The Kings appealed their 2006 tax assessment of \$106,596 to the Board. The Board reduced the assessment by \$5,233 for an assessed value of \$101,363. The Board granted no further reduction for the 2007 tax year.

¶ 7 The Kings appealed the Board's decision for both 2006 and 2007 on the ground of non-uniformity of assessment. The Kings claimed before the PTAB that the total assessment for their property should be \$66,052, which consisted of a reduction in the land assessment from \$19,634 to \$14,052 and a reduction in the improvements assessment from \$81,729 to \$52,000.

¶ 8 The parties each submitted a list of four properties they argued were comparable to the subject property. The Kings additionally submitted a three-page brief, a copy of the subject property's plat of survey, a copy of the Board's decisions, a copy of the subject property's 2004 and 2005 PTAB appeal decisions, and a copy of a document printed by the Board titled "How to Present a Case Based on Lack of Uniformity."

¶ 9 The Kings described the subject property as a 108-year-old, two-story, masonry-construction dwelling in good condition. The dwelling had 2,810 square feet of living area which contained seven total rooms, including two bathrooms and two bedrooms. The subject property did not have a finished basement, air conditioning, or a car port or garage. The subject property had gas heating. The Kings indicated "yes" in a section listing whether the property had a fireplace. The property had no other improvements. The Kings listed the assessment per square foot as \$29.08.

¶ 10 The King's first comparable property, located one block away at 550 West Oakdale Avenue, was a 101-year-old, two-story, masonry-construction dwelling in good condition. The

dwelling had two bathrooms and 3368 square feet of living area. The dwelling did not have a garage or car port. The assessment per square foot for the property was \$12.50. The second comparable property was a 106-year-old, two-story, masonry-construction dwelling in good condition located one block away at 544 West Oakdale Avenue. The property had three bathrooms and contained 3,242 square feet of living area. It had a two-car detached garage. The assessment per square foot for the property was \$22. The third comparable property was a 103-year-old, two-story, masonry-construction dwelling in good condition located one block away at 548 West Oakdale Avenue. The property had two bathrooms, 3242 square feet of living area, and a two-car detached garage. The assessment per square foot was \$22. The fourth comparable property was located at 436 West Arlington Place. The Kings did not state the property's proximity to the subject property. It contained three-stories and was of masonry construction. Its age was "over 62 years old" and was in good condition. It had two bathrooms and 3,600 square feet of living area. It did not have a finished basement. The assessment per square foot of the property was \$20.

¶ 11 The Kings did not provide any information showing the number of bedrooms, total room counts, dates of sale, or sale prices for any of their comparable properties. For the first three comparable properties, the Kings did not indicate if the comparable property had a finished basement. For the fourth comparable property, the Kings did not indicate if the property had a garage or car port.

¶ 12 The Board presented evidence that the subject property was located in neighborhood 63 and was a two-story, 114-year-old, masonry-construction building in average condition. The dwelling had two and a half bathrooms, four bedrooms, and eight total rooms. The Board listed the square feet as 2,830 but later agreed at the hearing that the property had 2,810 square feet of

living area. The property contained a partial, unfinished basement. The property had "hot water/steam" heating, but did not have air conditioning. It had two fireplaces. The property did not have a garage or other improvements. The Board listed the properties assessment per square foot as \$28.88.

¶ 13 The Board presented four comparable properties. All were in neighborhood 63 and located within a quarter of a mile of the subject property. They were also all two-story, masonry-construction dwellings in average condition. The Board's first comparable property was located at 418 West Arlington Place and was 113-years-old. It had two and one-half bathrooms, four bedrooms, and nine total rooms. It had 2,411 square feet of living area. The property contained a full basement with a formal recreation room. It had air conditioning and warm air heating. It did not have a fireplace, garage or car port, or other improvements. The property's assessment per square foot was \$30.23. The Board's second comparable property was 113-years-old and located at 606 West Arlington Place. The property had one and one-half bathrooms, six bedrooms, and nine total rooms. It consisted of 2,550 square feet of living area. It had a full, but unfinished basement. It did not have air conditioning, a fireplace, a garage, or other improvements. It had "hot water/steam" heating. The property had been sold in 2005 for \$975,000. The property's assessment per square foot was \$32.18. The Board's third comparable property was a 118-year-old dwelling at 2729 North Hampden Court. It had two and one-half bathrooms, three bedrooms, and seven total rooms. It consisted of 2,645 of square feet of living area. It had a full basement with a formal recreation room. It had air conditioning and "warm air" heating. It had two fireplaces and a one and one-half car garage. It did not have any other improvements. Its assessment per square foot was \$33.72. The Board's fourth comparable property was a 113-year-old dwelling located at 515 West Arlington

Place. It had three and one-half bathrooms, six bedrooms, and 13 total rooms. It consisted of 3,175 square feet of living area. It had a full basement with a formal recreation room. It had warm air heating but did not have air conditioning. It had two fireplaces and a one car garage. It had no other improvements. Its assessment per square foot was \$31.07.

¶ 14 The Kings presented the same comparable properties for the 2007 assessment with nearly identical information. The Board also submitted the same comparable properties for 2007.

¶ 15 On September 28, 2010, the PTAB held a hearing for both 2006 and 2007 under docket numbers 2006-23831 and 2007-20011. At the hearing, the Kings admitted they were just arguing the building assessment, not the land assessment.

¶ 16 On December 3, 2010, the PTAB issued its final administrative decision for the 2006 tax year finding "no change in the assessment of the property as established by the *** Board." The PTAB found that the subject property was improved with a 114-year-old, two-story, single-family dwelling of masonry construction. The dwelling had two and one-half bathrooms; a partial, unfinished basement; and two fireplaces. The PTAB noted that the parties agreed at the hearing that the dwelling contained 2,810 square feet of living space. The PTAB further noted that the Kings withdrew their contention of unequal treatment in the land assessment process.

¶ 17 The PTAB found that the Kings failed to overcome their burden of demonstrating a consistent pattern of assessment inequities within their assessment jurisdiction by clear and convincing evidence. Specifically, the PTAB found as follows:

"The [PTAB] finds the [Board's] comparables two, three and four to be the most similar properties to the subject in the record. These three properties are similar to the subject in improvement size, design, amenities, age and/or location and

have improvement assessments ranging from \$31.07 to \$33.72 per square foot of living area. The subject's per square foot improvement assessment of \$29.09 falls below the range established by these properties. The [PTAB] finds the [King's] comparables less similar to the subject in size and/or design and accorded less weight. The [B]oard's comparable one is accorded less weight because it differs from the subject in size. After considering adjustments and the differences in both parties' suggested comparables when compared to the subject, the [PTAB] finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted."

Accordingly, the PTAB found the correct assessment to total \$101,363 which consisted of a land assessment of \$19,634 and an improvement assessment of \$81,729.

¶ 18 On that same date, the PTAB issued its final administrative decision for the 2007 tax year finding "no change in the assessment of the property as established by the *** Board." The PTAB issued similar essential findings to those found in its final administrative decision for the 2006 tax year and found the correct assessment to total \$101,363 which consisted of a land assessment of \$19,634 and an improvement assessment of \$81,729.

¶ 19 On January 3, 2011, the Kings filed their complaint for administrative review seeking review of the PTAB's December 3, 2010, decisions.² The Kings argued in their complaint that the PTAB's decisions were against the manifest weight of the evidence and contrary to law. On May 21, 2013, the circuit court dismissed the King's complaint for administrative review. In its order, the circuit court affirmed the decision of the PTAB and found that the "PTAB is not bound

² The Kings initially filed their complaint for administrative review before the law division of the circuit court of Cook County. The presiding judge of the law division transferred the matter to the county division of the circuit court of Cook County.

by the documents issued by the Cook County Board of Review, Vol. I R-120 through R-123, 'How to Present a Case Based on Lack of Uniformity.' " On June 19, 2013, the Kings timely appealed.

¶ 20

ANALYSIS

¶ 21 Initially, we must make note of what is properly before this court due to deficiencies in the King's briefs. The rules of appellate procedure are well-established. Illinois Supreme Court Rule 341 sets forth the requirements of briefs before this court. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). The failure to elaborate on an argument, cite persuasive authority, or present well-reasoned argument violates Rule 341(h)(7) and results in the procedural default of that argument. *Sakellariadas v. Campbell*, 391 Ill. App. 3d 795, 804 (2009). Our supreme court has stressed that both citation to relevant authority and argument are required by Rule 341(h)(7). *Vancura v. Katris*, 238 Ill. 2d 352, 370 (2010). Vague allegations, or allegations that are merely listed, do not satisfy Rule 341(h)(7). *Id.* Rule 341(h)(7) requires appellants to refer to the pages of the record relied upon. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). Similarly, the rules for administrative review of a claim are also well-established. Defenses, arguments, or issues not presented during an administrative hearing are procedurally defaulted and cannot be raised for the first time on administrative review. *Cinkus v. Village of Stickney Municipal Electoral Board*, 228 Ill. 2d 200, 212 (2008). Additionally, we review the decision of the administrative agency, not the circuit court's findings, in appeals of administrative cases. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 531 (2006).

¶ 22 The deficiencies in the King's briefs concern their reliance on a document printed by the Board titled "How to Present a Case Based on Lack of Uniformity." In the first issue the Kings raise, *i.e.*, their "Argument I," they ask this court to review whether the circuit court erred when it found that the PTAB was not bound by the document. Upon administrative review, however,

we review the administrative agency's findings, not those of the circuit court. *Marconi*, 225 Ill. 2d at 531. The circuit court's findings have no bearing on our decision. Accordingly, the King's first contention on appeal is procedurally defaulted for failure to put forth a well-reasoned argument.

¶ 23 Under "Argument II," the Kings contend that the document titled "How to Present a Case Based on Lack of Uniformity" constitutes a binding admission by the Board. The Kings then cite several cases that discuss party admissions in different contexts before concluding that the alleged admissions "required the [Board] to follow its own guidelines with respect to comparables." The Kings, however, failed to put forth any argument or provide citation to any authority addressing how the document has any bearing on proceedings before the PTAB, which are conducted *de novo*. 35 ILCS 200/16-180 (West 2010). The Kings argument is made even more difficult to follow due to their failure to cite any pages of the record in support of their contention. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). We remind the Kings that this court has repeatedly warned litigants that we are "not a depository in which the burden of argument and research may be dumped." *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 80. We hold that the Kings are procedurally defaulted from raising their party admission argument as stated in "Argument II" of their brief because their argument is underdeveloped and fails to cite persuasive authority or the record.

¶ 24 The Kings argue, as their "Argument IV," that the Board's actions should be barred by estoppel. The Kings, however, failed to raise this issue before the PTAB. Defenses, arguments, or issues not presented during an administrative hearing are procedurally defaulted and cannot be raised for the first time on administrative review. *Cinkus*, 228 Ill. 2d at 212.

The Kings, therefore, are also procedurally defaulted from raising their estoppel argument before this court.

¶ 25 The King's final claim of error, listed as "Argument III," in their opening brief, is that the PTAB failed "to take cognizance of the disparity in assessed valuation between the 'subject property' and a property 1 block away." The Kings contend that the property one block away, located at 550 West Oakdale Avenue in Chicago, is of a similar design and age but is assessed at \$12.50 per square foot compared to the subject property, which was assessed at \$29 per square foot. The Kings argue that the Board's comparables have no probative value because they are on regular shaped lots and the houses contained on those lots have improved full basements whereas the King's property is on an irregular lot and their basement is only a partial, unimproved basement.

¶ 26 The PTAB argues that the Kings failed to prove non-uniformity because their lower-assessed comparables were less similar to the subject property in size than the Board's comparables. The Board similarly argues that the King's comparable properties were not similar and add that the Kings failed to provide sufficient detail of the comparable properties to be considered persuasive evidence. Accordingly, both the PTAB and the Board argue that the findings of the PTAB for the 2006 and 2007 tax years were not against the manifest weight of the evidence.

¶ 27 Article IX of the Illinois Constitution provides that property taxes "shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill. Const. 1970, art. IX, §4(a); *Walsh v. Property Tax Appeal Board*, 181 Ill. 2d 228, 234 (1998). "Because uniformity requires equality in the burden of taxation, taxing officials may not value the same kinds of properties within the same taxing boundary at different proportions to their

true value." *Moroney and Co. v. Illinois Property Tax Appeal Board*, 2013 IL App (1st) 120493, ¶ 39. Mathematical equality, however, is not required. *Cook County Board of Review v. The Property Tax Appeal Board*, 403 Ill. App. 3d 139, 145 (2010). Rather, the test calls for a practical uniformity as opposed to an absolute one. *Id.* (quoting *Apex Motor Fuel Co. v. Barrett*, 20 Ill. 2d 395, 401 (1960)). Accordingly, " '[t]he requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation.' " *Id.* The party challenging an assessment based on a lack of uniformity must prove the disparity by clear and convincing evidence. *Walsh*, 181 Ill. 2d at 234. The PTAB's rules provide that "[p]roof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of the subject property and it is recommended that not less than three comparable properties be submitted." 86 Ill. Adm. Code 1910.65 (b) (1997). The documentation submitted must show "the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." 86 Ill. Adm. Code 1910.65 (b) (1997).

¶ 28 The Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2010)) governs our review of decisions of the PTAB. 35 ILCS 200/16-195 (West 2010); *Cook County Board of Review v. The Property Tax Appeal Board*, 395 Ill. App. 3d 776, 784 (2009). The Administrative Review Law provides that the scope of our review:

“shall extend to all questions of law and fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court. The findings and conclusions of the administrative agency

on questions of fact shall be held to be prima facie true and correct.” 735 ILCS 5/3-110 (West 2010).

In reviewing an administrative agency’s decision, we will not reweigh the evidence or substitute our judgment for that of the administrative agency. *Cook County Board of Review*, 395 Ill. App. 3d at 784. Additionally, as discussed *supra*, we review the PTAB's decision on administrative review, not the circuit court's decision. *Senachwine Club v. Putnam County Board of Review*, 362 Ill. App. 3d 566, 568 (2005).

¶ 29 The amount of deference we must give to the decision of an administrative agency, such as the PTAB in this matter, “depends upon whether the question presented is a question of fact, a question of law, or a mixed question of law and fact.” *Marconi*, 225 Ill. 2d at 532. “The issue of whether comparable properties establish the uniform assessment and valuation of properties is a question of fact.” *The Board of Education of Ridgeland School District No. 122, Cook County v. The Property Tax Appeal Board*, 2012 IL App (1st) 110461, ¶ 31. A question of fact will only be reversed on administrative review where it is against the manifest weight of the evidence. *Cook County Board of Review*, 403 Ill. App. 3d at 143. In other words, where the opposite conclusion is clearly evident. *Moroney*, 2013 IL App (1st) 120493, ¶ 36. We will sustain decisions supported by competent evidence in the record. *Cook County Board of Review v. The Property Tax Appeal Board*, 334 Ill. App. 3d 56, 60 (2002).

¶ 30 After reviewing the record, we hold the PTAB's findings of no change in the assessment for the subject property for 2006 and 2007 are not against the manifest weight of the evidence because the Kings failed to show that their property was not uniformly assessed. It is well-established that a party challenging an assessment based on a lack of uniformity must prove the disparity by clear and convincing evidence. *Walsh*, 181 Ill. 2d at 234. The Kings, however,

put forth in support of their position examples of allegedly comparable properties that were not close in size to the subject property. The parties agreed that the subject dwelling contained 2,810 square feet of living area. The Board listed four comparable properties in the same neighborhood as the subject property that had the following square feet of living area: 2,411; 2,550; 2,645; and 3,175. Accordingly, the Board's comparable properties were similar in size to the subject property, plus or minus 400 square feet. The Kings, however, presented four comparable properties in the same neighborhood as the subject property that had the following square feet of living area: 3368; 3,242; 3,242; and 3,600. Accordingly, the Kings presented four properties that were over 400 square feet of living space larger than the subject property. The Kings also failed to indicate the number of bedrooms and total rooms their comparable properties possessed. The Board, however, did present this information for each of their comparable properties. The Kings failure to present a detailed list of comparable properties of a similar size to the subject property supports the PTAB's conclusion that the Kings failed to satisfy their burden of proving that the subject property was not uniformly assessed.

¶ 31 The Kings argue that the Board's list of comparable properties have no probative value because they are on irregular shaped lots. The Kings, however, withdrew this argument before the PTAB when they admitted that they were not challenging the land assessment of the subject property. Accordingly, the PTAB did not rule on this issue because the Kings withdrew it. Defenses, arguments, or issues not presented during an administrative hearing are procedurally defaulted. *Cinkus*, 228 Ill. 2d at 212. The Kings are prohibited from raising an issue regarding the land assessment here because they withdrew this contention before the PTAB.

¶ 32 Accordingly, after reviewing the record, we cannot say that the Kings overcame their burden of proving by clear and convincing evidence that the subject property was not uniformly

assessed where they presented a list of allegedly comparable properties that were not of similar size to the subject property. Furthermore, the Kings failed to provide any details addressing the number of bedrooms and total rooms contained in the dwellings of the comparable properties submitted to the PTAB. Therefore, we cannot say that the opposite conclusion is clearly evident here based on the evidence presented by the Kings. Accordingly, the PTAB's findings that no change in tax assessment is warranted for 2006 and 2007 are not against the manifest weight of the evidence.

¶ 33

CONCLUSION

¶ 34 The judgment of the circuit court of Cook County is affirmed.

¶ 35 Affirmed.