



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

APPELLANT: Stephan & Natalie Dekoker
DOCKET NO.: 10-25145.001-R-1
PARCEL NO.: 18-05-409-010-0000

The parties of record before the Property Tax Appeal Board are Stephan & Natalie Dekoker, the appellants, by attorney Richard J. Caldarazzo, of Mar Cal Law, P.C. in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 6,713
IMPR.: \$22,342
TOTAL: \$29,055

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 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 is a 54 year-old, one-story dwelling of masonry construction containing 1,992 square feet of living area. Features of the home include a partial unfinished basement, air conditioning and a two-car garage. The property

has an 11,675 square foot site and is located in Lyons Township, Cook County. The property is a class 2-04 property under the Cook County Real Property Assessment Classification Ordinance.

The appellants' appeal is based on overvaluation. In support of this argument, the appellants submitted a settlement statement disclosing the subject property was purchased without a realtor on December 12, 2008 from seller LaGrange Bank for a price of \$325,000. The appellants also submitted an appraisal estimating the subject property had a market value of \$365,000 as of December 1, 2010. The appraisal was based on three sales that occurred from March 2010 through October 2010 for prices that ranged from \$222.35 to \$295.45 per square foot of living area including land. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$53,844. The subject's assessment reflects a market value of \$602,282 or \$302.35 per square foot of living area, when using the board of review's indicated size of 1,992 square feet and when using the 2010 three-year average median level of assessment of 8.94% for class 2 property as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on four suggested equity comparable and the 2008 sale of the subject for \$325,000.

At hearing, the appellants confirmed that the 2008 sale of the subject was a distressed sale, but that the appraisal contained evidence of recent sale comparables. The board of review's objection to the absence of the appraiser at hearing as hearsay was sustained by the Board.

Conclusion of Law

The appellants contend the market value of the subject property is not accurately reflected in their 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. 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 appellants have met this burden of proof and a reduction in the subject's assessment is warranted.

In addressing the appellants' market value argument, the Board finds that the sale of the subject in December 2008 for \$325,000 is a "compulsory sale." The seller was LaGrange Bank, no realtor was used in the sale, and the appellants confirmed at hearing that the sale was distressed. A "compulsory sale" is defined as:

(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.

35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (2d Dist. 1979)).

However, when there is a recent sale of the subject, and that sale is a compulsory sale, the Board may consider evidence which would show whether the sale price was representative of the subject's fair cash value. The Illinois General Assembly recently provided clear guidance for the Board regarding compulsory sales. Section 16-183 of the Illinois Property Tax Code states as follows:

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.

35 ILCS 200/16-183.

The appellants' appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the report and conclusions drawn from them, and be subject to cross-examination. Therefore, the Board sustains the board of review's objection to the admission of the appraisal report as hearsay, and the opinions and conclusions of the value of the subject property are given no weight. See Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788 (1st Dist. 1983). However, the Board may consider the raw sales data submitted by the parties, including those contained in the appraisal report.

In determining the fair market value of the subject property, the Board looks to the evidence presented by the parties. Although the appellants' recent sale appears to have been a compulsory sale, it does reflect the fair market value based upon an analysis of recent sales of comparable properties contained in the appraisal report. The Board finds the appellants' comparables #1, #2 and #3 contained in the appraisal report set the range of market value for the subject. These comparables were similar to the subject in location, style, construction, features, age, living area and land area. They ranged from \$222.35 to \$295.45 per square foot of living area. The subject's assessment reflects a market value of \$302.35 per square foot of living area, including land, which is above the range established by the best comparable sales in this record.

Since there is supporting evidence that the sale price of the subject was at its fair cash value, the Board finds that the subject is overvalued and holds that a reduction 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

K. L. Fan

Klaus Albrecht

Member

Member

JR

Jerry White

Member

Acting Member

Robert Steffen

Acting 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: November 20, 2015

A. Proctor

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.