



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

APPELLANT: Williams Way Investments III, Inc.
DOCKET NO.: 11-04146.001-R-1
PARCEL NO.: 09-28-400-043

The parties of record before the Property Tax Appeal Board are Williams Way Investments III, Inc., the appellant, by attorney David C. Dunkin of Arnstein & Lehr, LLP in Chicago, and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$50,830
IMPR: \$81,770
TOTAL: \$132,600**

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 2011 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 part two-story and part one-story dwelling of frame construction with 3,206 square feet of living area. The dwelling was constructed in 1993. Features of the home include a partial unfinished basement, a fireplace and a 420 square foot garage. The property has a 10,050 square foot

site and is located in Darien, Downers Grove Township, DuPage County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted evidence disclosing the subject property was purchased on August 29, 2011 for a price of \$400,000. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$165,190. The subject's assessment reflects a market value of \$498,311 or \$155.43 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

Through the Downers Grove Township Assessor, the board of review reported that the subject property was sold in September 2011 to Williams Way Investment III, Inc. for \$400,000 which then sold the property in October 2011 for \$417,000 to Edward Garay. The attached copies of the PTAX-203 Illinois Real Estate Transfer Declarations for each of the transactions reflect that the properties were advertised for sale prior to the respective transactions.

In support of its contention of the correct assessment the board of review through the Downers Grove Township Assessor submitted information on three comparable sales located within .95 of a mile from the subject.

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

Conclusion of Law

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. 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 appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board has given reduced weight to the three comparable sales presented by the board of review. The comparables are each described as being in a different neighborhood code than the subject dwelling and this difference was not explained by the assessing officials, despite the purported proximity of the properties. The board of review's comparable sale #3 occurred in June 2009, a date most remote in time from the assessment date of January 1, 2011 and thus, less likely to be indicative of the subject's market value as of the date at issue. Each of the comparables have full basements, one of which includes finished area making these homes superior to the subject in foundation. Two of the comparables have larger garages than the subject and each is smaller than the subject dwelling.

The Board finds the most important consideration is based upon case law that ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill. App. 3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill. 2d 158, 161, 226 N.E.2d 265, 267 (1967). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). In light of this holding and the foregoing differences between the comparables and the subject, the comparable sales submitted by the board of review were given less weight.

The Board finds the best evidence of market value as of the assessment date at issue of January 1, 2011 to be the purchase of the subject property in August, 2011 for a price of \$400,000 which purchase occurred approximately eight months after the assessment date. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor, the property had been

advertised on the open market with the Multiple Listing Service and it had been on the market for 29 days. In further support of the transaction the appellant submitted a copy of the sales Settlement Statement, the PTAX-203 Illinois Real Estate Transfer Declaration. The Board finds the purchase price of \$400,000 is below the market value reflected by the assessment of \$498,311.

The Board further finds the board of review did not present any evidence to challenge the arm's length nature of the sale transaction that occurred in August 2011. Moreover, the appellant submitted a copy of the Multiple Listing Service data sheet reflecting the October 2011 sale of the subject for \$420,000 which depicts an original asking price of \$469,900 and remarked that the dwelling was "recently painted both inside and out." The Board finds on this record the board of review did not refute the contention that the August 2011 purchase price was reflective of market value.

Based on this record the Board finds the subject property had a market value of \$400,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for DuPage County of 33.15% shall apply. 86 Ill.Admin.Code §1910.50(c)(1).

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: February 20, 2015

A. Portol

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.