



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

APPELLANT: John Shay
DOCKET NO.: 12-01361.001-R-1
PARCEL NO.: 06-13-380-034

The parties of record before the Property Tax Appeal Board are John Shay, the appellant, by attorney Jerri K. Bush in Chicago, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$4,718
IMPR.: \$30,877
TOTAL: \$35,595

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane 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 part one-story and part two-story two-unit apartment building of frame construction with 1,436 square feet of building area. The building was constructed in 1900. Features include a partial basement and an attached 300 square foot garage. The property is located in Elgin, Elgin Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on six comparable sales. Based on this evidence, the appellant requested a total assessment of \$13,457 which would reflect a market value of approximately \$40,371 or \$20,186 per apartment unit, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$35,595. The subject's assessment reflects a market value of \$106,732 or \$53,366 per apartment unit, land included, when using the 2012 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum contending that all six comparables presented by the appellant were foreclosures, were exposed on the market for 5 to 270 days, sold for cash and sold in "as-is" condition.

In support of its contention of the correct assessment the board of review submitted information on 14 comparable sales that occurred between May 2009 and January 2012. In addition, the board of review's memorandum asserted that the subject property has an estimated yearly rent of \$17,100 and by extracting a GIM from market data the memorandum contended that the subject has an estimated market value of \$106,875 or \$55,438 per apartment unit. Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant acknowledged that some of the comparable sales may be foreclosures or short sales; however, in light of provisions of the Property Tax Code, compulsory sales are to be considered by both the board of review and by the Property Tax Appeal Board in revising and correcting assessments. (Citing 35 ILCS 200/16-55(b) & 16-183)

As to the income analysis of the board of review, appellant's counsel reiterated that the appeal was based upon comparable sales, not an income approach to value.

As to the board of review comparable sales, any sales that are not proximate in time to the assessment date should not be considered according to appellant's counsel.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Property Tax Appeal Board gave little weight to the estimate of value under the income approach prepared by the board of review. The Board finds that there was insufficient analysis in the memorandum as to how the estimate was developed under the income approach to value. In addition, the Board finds that Illinois courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. Since there are credible market sales contained in the record, the Board has placed most weight on this evidence.

As to the board of review's contention that the appellant utilized foreclosures, the Property Tax Appeal Board takes judicial notice of Public Act 96-1083 which amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (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.

Section 16-183 provides:

Compulsory sales. 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.

The Board finds the effective date of these statutes is applicable to the assessment date at issue, January 1, 2012 and thus consideration should be given to compulsory sales that are similar to the subject property.

The parties submitted a total of 20 comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparables #2, #3, #4 and #5 as these comparables either have central air conditioning which the subject does not have or do not have a garage which is a feature of the subject property. The Board also has given no weight to board of review comparables #1 through #8 which sold between May 2009 and December 2010 which dates are remote in time to the valuation date at issue of January 1, 2012 and thus less likely to be indicative of the subject's estimated market value as of the assessment date. The Board has also given reduced weight to board of review comparables #9, #10 and #11 as each of these buildings are substantially larger than the subject apartment building.

The Board finds the best evidence of market value to be appellant's comparable sales #1 and #6 along with board of review comparable sales #12, #13 and #14. These five most similar comparables sold between February 2011 and March 2012 for prices ranging from \$37,000 to \$110,000 or from \$18,500 to \$55,000 per apartment unit, including land. The subject's assessment reflects a market value of \$106,732 or \$53,366 per apartment unit, including land, which is within the range established by the best comparable sales in this record. After considering the most comparable sales on this record, the Board finds the appellant did not demonstrate the subject property's assessment to be excessive in relation to its market value and a reduction in the subject's assessment is not 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. Fen

Member

[Signature]

Member

Mark Albino

Member

Jerry White

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: June 26, 2015

[Signature]

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.