



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

APPELLANT: Jose A. Alvarez
DOCKET NO.: 12-01423.001-R-1
PARCEL NO.: 06-13-331-021

The parties of record before the Property Tax Appeal Board are Jose A. Alvarez, 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 a reduction 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: \$7,332
IMPR.: \$27,686
TOTAL: \$35,018

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 building of frame construction that contains two apartment units with a total of 1,832 square feet of building area. The building was constructed in 1900 and features include a full basement and a detached 400 square foot garage. The property

has a 6,534 square foot site and 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 \$13,376 which would reflect a market value of approximately \$40,128.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$39,596. The subject's assessment reflects a market value of \$118,729 or \$59,365 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 asserting that each of the appellant's sales was a foreclosure or a short sale transaction. The properties were on the market between 15 and 461 days. Five of the comparables sold for cash and four of those properties were 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.

The memorandum also asserted that the subject has an estimated yearly rent of \$19,800 and with the extraction of a GIM from the market the subject has an estimated market value of \$118,800 or \$59,400 per unit. Based on the foregoing 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. Counsel asserted that board of review sales #9 through #14 support the appellant's contention that the subject property is overvalued.

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 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.

The parties have submitted 20 comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given no weight to board of review comparables #1 through #8 as these sales occurred between May 2009 and December 2010 which sale dates are remote in time to the assessment 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 also 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. Moreover, board of review comparables #9, #10, #11 and #12 were each reported to have been "short sale" transactions.

The Board has given reduced weight to appellant's comparable #1 which property does not have a garage like the subject property.

The Board finds the remaining 11 comparable sales have varying degrees of similarity to the subject in age, dwelling size and/or features. These eleven comparables sold between February 2011 and April 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 \$118,729 or \$59,365 per apartment unit, including land, which is above the range established by the most similar and most proximate comparable sales as of the January 1, 2012 assessment date both in terms of overall value and on a per-apartment unit basis.

The Board has given no weight to the board of review's income analysis as the submission was lacking in sufficient data for analysis and determination as to how the estimate was calculated.

Based on the best sales evidence in the record the Board finds a reduction in the subject's assessment is justified.

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.

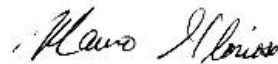
Chairman




Member



Member



Member



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



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.