



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

APPELLANT: Edward Zwicky
DOCKET NO.: 12-01437.001-R-1
PARCEL NO.: 06-12-305-001

The parties of record before the Property Tax Appeal Board are Edward Zwicky, 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: \$11,167
IMPR.: \$ 8,843
TOTAL: \$20,010

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 two-story brick dwelling that has 1,874 square feet of living area. The two unit multi-family dwelling was constructed in 1915. Features include a finished basement and a 440 square foot garage. The subject property has

a .20 acre lot. The subject property is located in Elgin Township, Kane County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information pertaining to the subject's recent sale price. The appellant's appeal petition indicated the subject property sold in April 2011 for \$60,000. The appellant submitted the Multiple Listing Service (MLS) sheet, the listing history and settlement statement associated with the sale of the subject property. The subject property was exposed to the open market and the sale was between un-related parties.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$44,796. The subject's assessment reflects an estimated market value of \$134,321 or \$71.68 per square foot of living area or \$67,161 per rental unit including land when applying the 2012 three-year average median level of assessment for Kane County of 33.35%.

In support of the subject's assessment, the board of review submitted an income approach to value and seven suggested comparable sales of multi-family dwellings. The evidence was prepared by the Elgin Township Assessor's Office.

The comparables had varying degrees of similarity when compared to the subject. The comparables sold from May 2009 to May 2010 for prices ranging from \$91,000 to \$220,000 or from \$45,500 to \$110,000 per rental unit including land.

Because the subject is a rental dwelling, the assessor developed the income approach to value using the gross income multiplier (GIM) methodology. The assessor concluded the subject property would have a monthly rental rate of \$1,600 or a gross annual income of \$19,200. No evidence to support the estimated market rent was submitted. The assessor purportedly extracted a GIM of 7 from comparable sales, but the sales or calculation of the GIM was not submitted as part of this record. Applying the GIM of 7 to the subject's estimated gross annual income of \$19,200, the assessor concluded the subject property had a market value of \$134,400 or \$67,200 per rental unit under the income approach to value.

With respect to the evidence submitted by the appellant, the assessor argued the subject's sale was a result of foreclosure.

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. First, the Board gave little weight to the estimate of value under the income approach prepared by the assessor on behalf of the board of review. Notwithstanding the lack of foundational market data regarding the subject's estimated rental rate and gross rental multiplier, 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 other credible market data available.

The Board finds the best evidence of market value contained in this record is the subject's sale price in April 2011 for \$60,000, just eight months prior to the subject's January 1, 2012 assessment date. The Board finds the subject's sale appears to meet the fundamental elements of an arm's-length transaction. The subject's assessment reflects an estimated market value of \$134,321, which is considerably more than the subject's recent sale price. The board of review did not present any credible evidence that would demonstrate the subject's sale was not an arm's-length transaction. The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428, (1970). A contemporaneous sale of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment.

Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

The Board further finds the comparable sales submitted by the board of review do not overcome the subject's arm's-length sale price as provided by the aforementioned controlling Illinois case law. Moreover, the comparables sold in 2009 or 2010, which are dated and less reliable indicators of market value as of the subject's January 1, 2012 assessment date.

Based on this analysis, the Board finds the subject property is overvalued and a reduction in its assessment is justified. Since fair market value has been established, Kane County's 2012 three year average median level of assessment of 33.35% shall apply.

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

Mark Albino

Member

Member

DR

Jerry White

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

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.