



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

APPELLANT: John Shay
DOCKET NO.: 12-01452.001-R-1
PARCEL NO.: 06-24-208-013

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 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: \$6,728
IMPR: \$14,616
TOTAL: \$21,344**

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 two-unit apartment building of frame construction with 2,072 square feet of living area. The dwelling was constructed in 1900. Features of the building include a basement and a 216 square foot garage. The property has a 5,663 square foot site and is located in Elgin, Elgin Township, Kane 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 March 7, 2011 for a price of \$64,000. Based on this evidence, the appellant 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 \$38,396. The subject's assessment reflects a market value of \$115,130 or \$57,656 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 the subject property was purchased in February 2011 from the bank in "as-is" condition without repair for cash in 72 days.

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. Based on the number of bedrooms/bathrooms to each unit, the board of review also argued that its comparables #3 and #13 were the most similar to the subject; these comparables sold for \$71,000 and \$52,000 per apartment unit in December 2009 and December 2011, respectively.

The memorandum also asserted that the subject has an estimated yearly rent of \$19,200 and with the extraction of a GIM from the market the subject has an estimated market value of \$115,200 or \$57,600 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 contended that the sale price of the subject property when an arm's length transaction is synonymous with fair cash value as determined by case law applying the provisions of the Property Tax Code.

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 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 and moreover, the board of review submitted comparable sales that were identified as short sales which are similarly compulsory sales like the subject's foreclosure. Additionally, the Board finds this statutory provision to be instructive as to the treatment of the purchase of the subject property as a foreclosure.

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.

The Board finds the best evidence of market value to be the purchase of the subject property in March, 2011 for a price of \$64,000. 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 72 days. The Multiple Listing Service data sheet indicates the property was sold "as-is" without repair, warranty or seller disclosure. The original asking price was \$67,680. In further support of the transaction the appellant submitted a copy of the Settlement Statement depicting the payment of brokers' fees as part of the transaction.

The Board finds the purchase price of \$64,000 is below the market value reflected by the assessment of \$115,130. Moreover, the subject's estimated market value is greater than the recent sales submitted by the board of review and depicted by comparables #9 through #14. The Board also finds the board of review did not present any substantive evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value. Thus, on this record, the Board gives the recent purchase price of the subject property more weight than the most similar comparables #12 and #13 which were presented by the board of review.

Based on this record the Board finds the subject property had a market value of \$64,000 as of January 1, 2012. Since market value has been determined the 2012 three year average median level of assessment for Kane County of 33.35% 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.

Chairman

K. L. Fen

Member

DR

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

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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.