



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

APPELLANT: Donald & Amy Miller
DOCKET NO.: 12-01990.001-R-1
PARCEL NO.: 06-12-358-007

The parties of record before the Property Tax Appeal Board are Donald & Amy Miller, the appellants, 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: \$4,705
IMPR: \$3,000
TOTAL: \$7,705**

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 one-story dwelling of frame construction with 720 square feet of living area. The dwelling was constructed in 1948. Features of the home include a full basement with finished area. The property has a 2,640 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument, the appellants submitted evidence disclosing the subject property was purchased on December 1, 2011 for a price of \$20,000. In further support of the subject's purchase price, the appellants provided a page of eight color photographs depicting warped, loose and damaged vinyl siding, dilapidated concrete steps, concrete parging, mold growth in the attic, soiled carpet and what was described as an "outdated service panel" (electrical fuse box). The appellants also reported that the subject lot will not accommodate the addition of a garage. This property was reportedly on the market for nearly a year before the sale. The property was admittedly purchased as a short sale.

The appellants also completed Section V of the appeal petition with descriptions and sale information on eight comparable properties located within 2.48-miles of the subject property. The appellants contend these are regular and short sales; no foreclosures or REO sales were included. The comparables consist of one-story frame dwellings that were 62 to 114 years old. The dwellings range in size from 600 to 1,265 square feet of living area and feature full or partial basements. Three of the comparables have central air conditioning and three have garages ranging in size from 360 to 484 square feet of building area. The comparables have parcels ranging in size from 3,200 to 8,712 square feet of land area. These properties sold between May 2011 and February 2012 for prices ranging from \$23,000 to \$32,000 or from \$22.73 to \$50.00 per square foot of living area, including land. The appellants also reported the subject dwelling is located on a busy street as compared to these comparables.

Based on this evidence, the appellants requested a reduction in the subject's assessment to \$7,705 which would reflect a market value of \$23,117 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 \$22,798. The subject's assessment reflects a market value of \$68,360 or \$94.94 per square foot of living area, 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 from the Elgin Township Assessor. The assessor noted differences in design, size and/or that the comparables were short sales not in close

proximity to the subject. As to the purported distress condition of the subject, the assessor characterized those items as "typical maintenance" that does not affect the structure or livability of the home.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on three comparable sales located on the same side of Elgin as the subject property. Each of the comparables consists of a one-story frame dwelling that was built between 1885 and 1950. The comparables range in size from 640 to 824 and each has a full unfinished basement. Two comparables have a garage of 440 and 451 square feet of building area, respectively. The parcels range in size from 3,267 to 7,854 square feet of land area. The comparables sold in May 2010 and January 2011 for prices ranging from \$78,000 to \$93,500 or from \$95 to \$133 per square foot of living area, including land, rounded.

In addition, because the subject property is a rental unit, the assessor estimated a year rent of \$10,800 and by extracting a GRM from market data, the assessor estimated a fair market value of \$97,200 for the subject.

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

In written rebuttal, the appellants noted that the subject property was on the market for 348 days prior to its purchase as a short sale. The appellants further contended that the subject is a very small dwelling with a small lot, in distressed condition with the property located on a busy street. As to the sales presented by the board of review, the appellants contend based on applicable Multiple Listing Service data sheets that these properties are in much better condition and have superior upgrades when compared to the subject. As part of the rebuttal, the appellant asserted that the true market value of the subject property was believed to be around \$26,000.

Conclusion of Law

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

The Property Tax Appeal Board has given little weight to board of review comparables #2 and #3 which each sold in May 2010, dates that are remote in time to the valuation date of January 1, 2012 and thus less likely to be indicative of the subject's estimated market value. In addition, the Board has given reduced weight to the remaining comparable sales presented by both parties since there is evidence of the sale price of the subject property in this record after exposure to the open market for a lengthy period of time.

Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has construed "fair cash value" to mean 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). Our supreme court has at least indicated that a sale of property during the tax year in question is a "relevant factor" in considering the validity of an assessment. [citations omitted]. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

The Board finds the best evidence of market value to be the purchase of the subject property in December, 2011, a month prior to the assessment date of January 1, 2012, for a price of \$20,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellants 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 at least 348 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase date and price. The applicable Multiple Listing Service data sheet depicts the original asking price was \$62,000 with comments "you have to look beyond the dirt, just a new carpet and some paint

and home sweet home" with the property sold in "as is" condition.

The Board finds the purchase price of \$20,000 is below the market value reflected by the assessment of \$68,360. The Board also finds the original asking price is below the subject's estimated market value as reflected by its assessment. Furthermore, the Board 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 in light of the condition issues and the length of time the subject was on the open market.

Based on this record the Board finds the subject property is overvalued and a reduction in the subject's assessment commensurate with the appellants' request is 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

Mark Albino

Member

[Signature]

Member

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: July 24, 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.