



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

APPELLANT: Andrew Kelly Resek
DOCKET NO.: 12-04362.001-R-1
PARCEL NO.: 19-18-254-016

The parties of record before the Property Tax Appeal Board are Andrew Kelly Resek, the appellant, by attorney Jerri K. Bush of Chicago, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$17,145
IMPR.: \$40,355
TOTAL: \$57,500

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the McHenry County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) contesting 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 dwelling of frame construction with 2,428 square feet of living area. The dwelling was constructed in 1994 and is approximately 18 years old. Features of the home include a central air conditioning, one fireplace and a two-car attached garage with 440 square feet of building area. The property has a 9,011 square foot site and is located in Crystal Lake, Algonquin Township, McHenry County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on four comparable sales improved with two-story dwellings that ranged in size from 2,282 to 2,449 square feet of living area. The dwellings were either 22 or 24 years old. Two comparables

had basements, each comparable had central air conditioning, two comparables each had one fireplace and each comparable had a garage ranging in size from 441 to 483 square feet of land area. The sales occurred from June 2011 to June 2012 for prices ranging from \$163,000 to \$199,900 or from \$67.22 to \$81.63 per square foot of living area, including land. Based on this evidence the appellant requested the subject's assessment be reduced to \$56,911.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$64,694. The subject's assessment reflects a market value of \$198,814 or \$81.88 per square foot of living area, land included, when using the 2012 three year average median level of assessment for McHenry County of 32.54% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted a grid analysis of the appellant's comparables and three comparables selected by the township assessor. The document submitted indicated appellant's comparables #1 and #4 were foreclosures and appellant's comparable sale #2 was a short sale.

The three comparables selected by the assessor were improved with two-story dwellings that ranged in size from 2,276 to 2,526 square feet of living area. The dwellings were 16 or 17 years old. Each of the comparables had a basement that was partially finished, central air conditioning, one fireplace and a garage ranging in size from 449 to 715 square feet of building area. The comparables sold from September 2010 to September 2011 for prices ranging from \$234,000 to \$239,000 or from \$94.62 to \$102.81 per square foot of living area.

In rebuttal the appellant's attorney indicated the board of review comparables were located in a different area than the subject property. The appellant's attorney also noted that board of review sale #1 sold in 2010 and is dated. The appellant's counsel also asserted that sections 16-55(b) and 16-183 of the Property Tax Code (35 ILCS 200/16-55(b) & 16-183) provide that the board of review and the Property Tax Appeal Board are to consider compulsory sales of comparable properties for purposes of revising and correcting assessments including compulsory sales of comparable properties submitted by the taxpayer.

The board of review responded to the appellant's rebuttal evidence noting the location of the comparables used by the parties and a list of sales from which the comparables were selected.

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 record contains seven sales presented by the parties to support their respective positions. The Board gave most weight to the appellants' comparable sales #1 and #3 as neither of these comparables had a basement, like the subject property, while the remaining comparables submitted by the parties had a basement with four being partially finished. These most similar properties sold for prices of \$163,000 and \$172,500 or for \$67.22 and \$71.13 per square foot of living area, including land. The subject's assessment reflects a market value of \$198,814 or \$81.88 per square foot of living area, including land, which is above that established by the best comparable sales in this record.

In rebuttal the board of review asserted that three of the appellant's comparables were short sales or foreclosures, including appellant's comparable sale #1. Section 1-23 of the Code defines compulsory sale as:

"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. 35 ILCS 200/1-23.

Section 16-183 of the Code provides that the Property Tax Appeal Board is to consider compulsory sales in determining the correct assessment of a property under appeal stating:

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. 35 ILCS 200/16-183.

Based on these statutes, the Property Tax Appeal Board finds it is appropriate to consider these sales in revising and correcting the assessment.

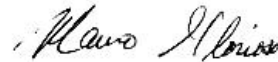
As noted, the Board gave less weight to the remaining sales submitted by the properties due to differences in foundation and the fact that board of review sale #1 sold in September 2010, which is not as proximate in time to the assessment date at issue as were the best sales in the record.

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Based on this evidence the Board finds a reduction in the subject's assessment is appropriate.

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



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: November 20, 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.