



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

APPELLANT: John Kenna
DOCKET NO.: 12-04590.001-C-1
PARCEL NO.: 22-100-040-00

The parties of record before the Property Tax Appeal Board are John Kenna, the appellant, and the Jo Daviess County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$5,365
IMPR: \$177,641
TOTAL: \$183,006

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Jo Daviess 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 five-story commercial building of masonry construction with 7,980 square feet of building area. The building was constructed in 1855 and consists of first floor retail space and seven apartment units in the upper floors. The property has a 1,869 square foot site

and is located in Galena, West Galena Township, Jo Daviess County.

The appellant contends overvaluation as the basis of the appeal.¹ In support of this overvaluation argument, the appellant submitted information on three comparable sales located within four blocks of the subject property. The comparables have similar ages to the subject building and are two-story to four-story buildings of brick or stucco exterior construction. The comparables range in size from 6,027 to 13,290 square feet of building area. Each comparable has first floor retail space; two of the comparables have three and four apartment units and comparable #2 has one apartment unit and six hotel rooms. These properties sold between October 2009 and June 2012 for prices ranging from \$265,000 to \$560,000.

Based on this evidence, the appellant requested a total assessment of \$118,328 which would reflect a market value of approximately \$354,984 or \$44.48 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$192,334. The board of review also reported that a township equalization factor of .9515 was applied to assessments resulting in a total assessment for the subject of \$183,006. The subject's equalized total assessment reflects a market value of \$548,250 or \$68.70 per square foot of building area, land included, when using the 2012 three year average median level of assessment for Jo Daviess County of 33.38% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum with additional evidence. As part of the memorandum, the board of review reported that 2012 was the "quad" or quadrennial revaluation year in West Galena Township. The board of review's memorandum also reported that the subject property was listed for sale in 2012 and part of 2013 with an asking price of \$699,000. The listing data described the subject as completely rehabbed with various improvements and upgrades including exterior painting of

¹ In Section 2d of the Commercial Appeal petition, the appellant also marked "assessment equity" as a basis of the appeal. When the appeal was returned as incomplete for the appellant to provide assessment date on at least three comparable properties, the appellant responded to the Property Tax Appeal Board, "The reason for this appeal is an assessment increase of 93% between 2011 and 2012. This resulted in a tax increase of 109%." The appellant did not provide the assessments of comparable properties for purposes of an assessment inequity analysis.

the front in 2011, hardwood flooring in apartments in halls and a new rubber roof in 2006. (See Exhibit B).

As to the appellant's comparable properties, the board of review reported that comparable #1 was a funeral home with three apartments on the second floor which was remodeled to a brewery and small pub after the sale with the apartments remaining on the second floor. For appellant's comparable #2, the first floor is retail with "guest rooms" on the second floor and open storage on the third and fourth floors. As to appellant's comparable #3, the board of review contends this property is in average condition and has not had the upgrades that the subject building has had. In addition, the board of review submitted Exhibit D consisting of corrections to the appellant's comparables in land size, building square footage, office square footage and consequently that resulting sale prices per square foot along with a change in the sale price of appellant's comparable #3.

In support of its contention of the correct assessment the board of review submitted information as part of Exhibit C on six equity comparables with sales data on four of the properties. In the absence of assessment equity data, the Property Tax Appeal Board finds that the board of review's equity data is not responsive to the appellant's overvaluation and will not further address the equity information. The four sales occurred between May 2010 and May 2013 for prices ranging from \$350,000 to \$534,375 or from \$65.93 to \$145.83 per square foot of building area, including land.

Based on the foregoing evidence and an argument that the appellant's comparables are dissimilar in condition to the subject, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant asserted "the listed price of \$699,000 has nothing to do with the actual value of the building. It's a starting place for the give and take of real estate sales negotiations." The appellant further reported that five of the seven apartment units of the subject building had been rehabbed in 2012 and as of the filing of the rebuttal renovations were still ongoing as shown in attached photographs taken in April 2014. The photographs are identified as being from apartments 5 and 6. The appellant concluded that the subject building "has been unfairly over assessed" in comparison with similar properties having received "the highest percentage

increase in assessed value in 2012" along with a tax bill going from \$6,661 in 2011 to \$13,710, rounded, in 2012.

In reply, the board of review noted that the subject's estimated market value based on its assessment is substantially below the asking price in the recent listing and furthermore the listing was not utilized as the basis to assess the subject property. The board of review also asserted that the photographs depict "painting and replacing some tile in the bathroom" which is opined to be common practice by landlords in times between tenants. Lastly, the board of review asserted that its equity data depicts the subject property is equitably assessed and that "real estate taxes" are not within the jurisdiction of the assessor, the board of review or the Property Tax Appeal Board.²

The appellant filed a response to various assertions made by the board of review in its reply.

Having had a full opportunity to outline their respective positions, the matter is ripe for a decision by the Property Tax Appeal Board.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted a total of seven comparable properties to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparable #1 as this property sold in October 2009, a date more remote in time to the valuation 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. In addition, the Board has given reduced weight to board of review comparable #3 which

² The reply is correct in that the Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation. (86 Ill.Admin.Code §1910.10(f)).

building is significantly smaller than the subject building and therefore deemed to be dissimilar for purposes of comparison.

The Board finds the best evidence of market value to be appellant's comparable sales #2 and #3 along with board of review comparable sales #2, #5 and #6. These properties were similar in location and age. These comparables ranged in size from 4,720 to 11,040 square feet of building area and sold between May 2010 and May 2013 for prices ranging from \$260,000 to \$560,000 or from \$43.89 to \$89.06 per square foot of building area, including land. The subject's equalized assessment reflects a market value of \$548,250 or \$68.70 per square foot of building area, including land, which is within the range established by the best comparable sales in this record both in terms of overall value and on a per-square-foot basis.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill. App. 3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). In this regard, the Board finds that the subject's estimated market value based on its equalized assessment is further supported by the April 2012 listing price of the subject property for \$699,000 which as a general principle would reflect the upper limit of value.

Based on this evidence the Board finds a reduction in the subject's assessment is not 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

Klaus 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.