



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

APPELLANT: Joel Sisto
DOCKET NO.: 12-04666.001-R-1
PARCEL NO.: 12-03-302-005

The parties of record before the Property Tax Appeal Board are Joel Sisto, the appellant, by attorney Dennis D. Koonce of Dennis Koonce Attorney at Law, in Frankfort, 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: \$26,997
IMPR: \$84,726
TOTAL: \$111,723

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 single-family dwelling that contains 1,998 square feet of living area. The dwelling was constructed in 1930. Features of the home include a partial basement, central air conditioning, a fireplace and a detached 338 square foot garage. The property has a 6,600

square foot site and is located in Geneva, Geneva 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 July 27, 2012 for a price of \$335,000. 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 \$122,662. The subject's assessment reflects a market value of \$367,802 or \$184.09 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 Denise D. LaCure, Geneva Township Assessor. The assessor noted that counsel for the appellant did not report whether the sale of the subject was between related parties. Counsel for the appellant also did not answer the inquiry on the appeal petition whether the property was sold in settlement of an installment contract, a contract for deed or a foreclosure. The assessor acknowledged that the Multiple Listing Service data sheet which the appellant did submit reflects an original asking price of \$390,000 and reported the property was sold pursuant to a short sale. According to the assessor, the PTAX-203 "failed to indicate that the sale was in lieu of foreclosure."

In response to this appeal, the township assessor submitted copies of documentation to establish that foreclosure proceedings had been initiated on the subject property as of July 3, 2012. The assessor also contended that the sale which occurred on July 27, 2012 is "a considerable length of time beyond the January 1, 2012 date of assessment." The assessor concluded in the memorandum that given the nature of the sale and that it occurred nearly 8 months after the assessment date, the short sale should have little or no weight in determining the subject's market value.

The board of review provided no market data to support the subject's estimated market value as reflected by its assessment.

Based on the foregoing argument, 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.

The Board finds the only evidence of market value in the record to be the purchase of the subject property in July, 2012 for a price of \$335,000. The appellant provided evidence demonstrating the sale had some of the elements of an arm's length transaction. The appellant partially completed Section IV - Recent Sale Data of the appeal disclosing the property was sold by Jim and Karen White, 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 33 days.

The appellant submitted a copy of the Multiple Listing Service data sheet which indicated the property was listed on the market in February 2012 for \$390,000 with a subsequent price reduction to \$350,000 and a contract for the property was executed in March 2012. In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the sales price and sale date along with the payment of brokers' fees as part of the transaction.

As to the board of review's contention that the subject property was sold pursuant to a short sale, the Property Tax Appeal Board 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. Moreover, the Board finds these statutes are instructive as to the appellant's 2012 assessment of the subject property and 2012 purchase price of the subject property.

The Property Tax Appeal Board finds the purchase price of \$335,000 is below the market value reflected by the assessment of \$367,802. The Board further finds the board of review did not present any substantive evidence to challenge the apparent arm's length nature of the transaction. There is no indication on the face of the documentation that the appellant Joel Sisto is related to the sellers Jim and Karen White. The subject property was sold by Warranty Deed and the property was to be the principal residence of the buyer. Furthermore, the board of review did not refute the contention that the purchase price of \$335,000 was reflective of market value given the original asking price and subsequent price reduction in the asking price prior to the sale transaction.

Based on this limited evidence of record, the Board finds the subject property had a market value of \$335,000 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.

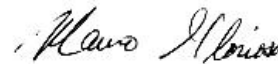
Chairman



Member



Member



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



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.