



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

APPELLANT: Bruce & Linda Ellicson
DOCKET NO.: 12-04667.001-R-1
PARCEL NO.: 12-05-405-080

The parties of record before the Property Tax Appeal Board are Bruce & Linda Ellicson, the appellants, 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: \$15,117
IMPR.: \$42,245
TOTAL: \$57,362

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 residential condominium unit in a senior development consisting of three-story brick buildings that was constructed in 2005. The unit contains 1,127 square feet of living area which features central air

conditioning and an underground parking place. The property is located in Geneva, Geneva 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 March 2, 2012 for a price of \$172,000. Based on this evidence, the appellants 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 \$74,636. The subject's assessment reflects a market value of \$223,796 or \$198.58 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 sales from 2009, 2010 and 2011 were used to determine the values as of the January 1, 2012 assessment date. The appellants purchased the subject unit three months after the assessment date at issue and as argued by the assessor, the appellants are seeking a "retroactive reduction to the 2012 sale price." In light of these circumstances, the assessor contends that a reduction in the subject's assessment would be premature and would place an unfair burden on the rest of this "senior" neighborhood.

Next, the assessor acknowledged that the subject's 2012 purchase price was taken into account in the development of the 2013 assessment for the entire neighborhood. In fact, the subject's 2013 assessment was reduced to \$55,374 or a market value of \$166,139.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on six comparable sales of units within the development that occurred between March 2009 and October 2012. The comparable units contain either 1,127 to 1,153 square feet of living area and have similar features to the subject. The properties sold for prices ranging from \$217,800 to \$261,000 or from \$188.90 to \$231.59 per square foot of living area, including land.

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

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.

As a general proposition, except in counties with more than 200,000 inhabitants that classify property for taxation purposes, each tract or lot of property is to be valued at 33 1/3% of its fair cash value. 35 ILCS 200/9-145. Section 1-50 of the Code defines fair cash value as:

The 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 defined fair cash value as 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 to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d. 428 (1970). "Fair cash value can only be established where there is an offer, and an acceptance, in a *bona fide* transaction." Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 492, 559 (4th Dist. 1988) [emphasis in original]. As further stated in Residential Real Estate Co. v. Property Tax Appeal Board, 188 Ill. App. 3d 232 at 242 (5th Dist. 1989):

A contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value but would be practically conclusive on the issue of whether an assessment was at full value. [citation omitted.] However, the sale price of property does not necessarily establish its value without further information on the relationship of the buyer and seller **and other circumstances**. Citing Ellsworth Grain, *supra*, 72 Ill.App.3d 552. [Emphasis added.]

Black's Law Dictionary (9th ed. 2009) defines "arm's length" as "relating to dealings between two parties who are not related or not on close terms and who are presumed to have roughly equal bargaining power; not involving a confidential relationship."

The concept that a sale price is reflective of 'market value' also includes a number of other factors, including but not limited to, exposure on the open market for a reasonable period of time. See also, Calumet Transfer, LLC v. Property Tax Appeal Board, 401 Ill.App.3d 652 (1st Dist. 2010). The board of review presented no evidence to contradict the appellants' evidence that the subject's sale was an arm's-length transaction. In fact, the township assessor acknowledged that the sale of the subject was a valid consideration for area values for the 2013 assessment process, but argued that it was "retroactive" to presume that the subject property had a like market value of \$172,000 on January 1, 2012, even though it sold in March 2012 for \$172,000.

The Board finds the best evidence of market value to be the purchase of the subject property in March, 2012 for a price of \$172,000. The appellants provided evidence demonstrating the sale had some of the elements of an arm's length transaction. The appellants partially 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 334 days. In further support of the transaction the appellants submitted a copy of the Closing Statement reiterating the purchase price and date along with the payment of brokers' fees as part of the transaction.

The Property Tax Appeal Board finds the purchase price of \$172,000 is below the market value reflected by the assessment of \$223,796. The Board finds the board of review did not refute the contention that the purchase price was reflective of market value. The Property Tax Appeal Board has given little weight to the six comparable sales presented by the board of review as comparable sales evidence does not overcome the validity of an arm's length sale transaction. See also, Calumet Transfer, LLC v. Property Tax Appeal Board, 401 Ill.App.3d 652 (1st Dist. 2010).

Based on this record the Board finds the subject property had a market value of \$172,000 as of January 1, 2012. Since market value has been determined the 2012 three year average median

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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.

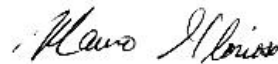
Chairman




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.