



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

APPELLANT: Steve & Sue Ciangi
DOCKET NO.: 13-00158.001-R-1
PARCEL NO.: 22-22-16-209-013-0000

The parties of record before the Property Tax Appeal Board are Steve & Sue Ciangi, the appellants, by attorney Nora Doherty of Steven B. Pearlman & Associates, in Chicago, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$13,044
IMPR.: \$41,956
TOTAL: \$55,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 brick and frame construction with approximately 2,705 square feet of

living area.¹ The dwelling was constructed in 2005. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a 728 square foot garage. The property has a 9,298 square foot site and is located in Beecher, Washington Township, Will County.

The appellants' appeal is based on overvaluation. In support of this argument, the appellants submitted evidence disclosing the subject property was purchased on February 25, 2013 for a price of \$165,000. 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 five months. In further support of the transaction the appellants submitted a copy of the Multiple Listing Service data sheet depicting an original listing price of \$234,900; a copy of the Listing & Property History Report depicting the original listing date of September 13, 2012 and subsequent price reductions prior to the sale; and a copy of the Settlement Statement reiterating the purchase date and price of \$165,000.

In addition, the appellants submitted a copy of an appraisal of the subject property prepared for the purchase transaction with an estimated market value as of February 7, 2013 of \$170,000. The appraiser acknowledged the sale of the subject was an REO sale.

As to the subject dwelling, the appraiser noted previous dampness in the basement where there had been approximately 6" of standing water based on watermarks on open studs with some visible mold-like substance on some exposed wood; there had been minimal upgrades since construction; and the property was sold as-is. Photographs included with the appraisal depicted the water-line/mold-like substance.

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 \$73,403. The subject's assessment reflects a market value of \$221,160 or \$81.76 per square foot of living area, land

¹ The appellants and their appraiser report a dwelling size of 2,665 square feet, but provided no schematic or other evidence to support this contention. The assessing officials report a dwelling size of 2,705 square feet with a copy of the subject's property record card with a schematic drawing.

included, when using the 2013 three year average median level of assessment for Will County of 33.19% as determined by the Illinois Department of Revenue.

In rebuttal the board of review submitted a memorandum from Carol Ann Blume, Washington Township Assessor, along with comparable sales data. Blume contends that the recorded documentation shows that the sale of the subject property was in settlement of a foreclosure action. In addition, she contends that the three sales in the appraisal report were also foreclosure or sheriff's sales with documentation to support the assertion.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on five comparable sales located in the subject's subdivision. The parcels range in size from 8,925 and 15,869 square feet of land area improved with two-story dwellings of brick or brick and frame construction which were built between 2003 and 2006. The homes range in size from 1,969 and 3,208 square feet of living area and have full basements, central air conditioning, a fireplace and a garage ranging in size from 480 to 988 square feet of building area. The properties sold between August 2012 and September 2013 for prices ranging from \$200,000 to \$252,500 or from \$75.61 to \$116.81 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.

In written rebuttal, counsel for the appellants noted that foreclosure sales are part of the subject's market as in the 24 months prior to January 1, 2013 there were 21 short sales or foreclosures of a total of 45 sales with another 15 sales with "some bonus or variable financing affiliated with the transaction." (Exhibit A) As to the five sales submitted by the board of review some occurred long after the lien date, differ in dwelling size, lot size and/or support a reduction in the subject's assessment. As to the sale of the subject, counsel notes that there were no willing buyers at the original asking price that is similar to the subject's estimated market value based on its assessment; the subject property had multiple price reductions prior to the time that it sold. In closing, the appellants' counsel contends that a recent arm's length sale is the best indicator of market value.

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 to the assessor's claims regarding foreclosure and sheriff's sales, 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, 2013 and these statutory provisions are likewise instructive as to consideration to be given to the subject's sale as a result of a foreclosure action.

The Board finds the best evidence of market value to be the purchase of the subject property in February, 2013, a month after the assessment date at issue of January 1, 2013, for a price of \$165,000. 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 by Federal National Mortgage Association using Illinois REO Realty with a Realtor, Anthony Blake, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for five months. In further support of the transaction the appellants submitted a copy of the Multiple Listing Service data sheet depicting an original listing price of \$234,900; a copy of the Listing & Property History Report depicting the original listing date of September 13, 2012 and subsequent price reductions prior to the sale; and a copy of the Settlement Statement reiterating the purchase date and price of \$165,000.

The Property Tax Appeal Board finds the purchase price of \$165,000 is below the market value reflected by the assessment of \$221,160. The Board finds the board of review did not present sufficient 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 particularly given the water damage in the basement of the subject property and in light of the statutory provisions regarding compulsory sales.

The Board has also given little weight to the five sales presented by the board of review. 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). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). 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).

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

K. L. Fan

Klaus Albrecht

Member

Member

Jerry White

Member

Acting Member

Robert Steffen

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

A. Proctor

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.