



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

APPELLANT: Michael Battistoni
DOCKET NO.: 13-00531.001-R-1
PARCEL NO.: 19-09-09-406-059-0000

The parties of record before the Property Tax Appeal Board are Michael Battistoni, the appellant, by William Blanchard of William B. Blanchard Attorney at Law, in Oakbrook, 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: \$1,986
IMPR.: \$49,382
TOTAL: \$51,368**

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant 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 townhome of brick and frame exterior construction with 1,295 square feet of living area. The townhouse was constructed in 1992. Features of the townhome include central air conditioning, a fireplace and a garage. The property has a 1,564 square foot site and is located in Mokena, Frankfort Township, Will County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on four comparable townhome sales located within 1,000 feet of the subject property. As supporting documentation, the appellant provided copies of printouts entitled "Frankfort Township Property Information" for each of the comparable properties. The comparables consist of two-story townhomes of frame, brick or brick and frame exterior construction that were built in 1992 or 1993. The townhomes range in size from 1,295 to 1,703 square feet of living area and feature central air conditioning, a fireplace and a garage. The comparables sold between February and December 2012 for prices ranging from \$134,000 to \$172,900 or from \$89.81 to \$119.69 per square foot of living area, including land.

Based on this evidence, the appellant requested a total assessment of \$40,626¹ which would reflect a market value of approximately \$121,878 or \$94.11 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$55,982. The subject's assessment reflects a market value of \$168,671 or \$130.25 per square foot of living area, land 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 response to the appeal, the board of review submitted a memorandum prepared by Joseph N. Kral, Frankfort Township Assessor, along with supporting documentation. The assessor noted that appellant's comparable #1 was an REO/Lender owned property and the other comparables were not Brighton townhomes like the subject or have a different "townhouse type and geographical location."

In support of its contention of the correct assessment the board of review through the township assessor submitted information on six comparable sales where board of review comparables #5 and #6 were the same properties and same sales as appellant's comparables #2 and #1, respectively. The comparables consist of townhomes of frame construction that were built in 1993. The townhomes contain either 1,295 or 1,492 square feet of living area and feature central air conditioning, a fireplace and a

¹ This is a mathematical total of the requested land and improvement assessments for the subject.

garage of either 272 or 462 square feet of building area. The comparables sold from June 2010 to December 2012 for prices ranging from \$134,000 to \$209,000 or from \$89.81 to \$161.39 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 appellant requested that sales which occurred in 2010 and 2011 be excluded from consideration in the decision of the Property Tax Appeal Board. Counsel also argued that both short sales and "first sales after judicial sales" should be considered in the analysis so long as the properties otherwise meet the requirements of an arm's length transaction.

As part of the rebuttal analysis, counsel argued that the average per-square-foot sale price of the appellant's comparables was \$104.32 which, when applied to the subject, would result in a total assessment of approximately \$45,031. Similarly, counsel argued that excluding sales presented by the board of review that occurred in 2010 and 2011, the average per-square-foot sale price of the two most recent comparable sales is \$104.75 which, when applied to the subject, would result in a total assessment of approximately \$45,217. Therefore, appellant's counsel requested a total assessment for the subject property of \$45,000 based on the relevant comparable sales presented by the parties.

Also as part of the rebuttal, counsel presented a "correction of error in Residential Appeal" wherein counsel proposed to alter the requested change in the improvement assessment to \$36,840 for a new total requested assessment on the appeal petition of \$38,826.

Conclusion of Law

As an initial matter, the Property Tax Appeal Board finds the appellant in rebuttal may not modify the appellant's assessment claim in the manner proposed by the appellant herein. The appellant's new total assessment request of \$38,826 does not significantly alter the amount in dispute. (See 35 ILCS 200/16-180 & 86 Ill.Admin.Code §1910.40(f)) However, in light of both the statute and rule, the Board will not consider the appellant's new lower assessment request in this proceeding. In particular, Section 1910.31(b)(1) of the rules of the Property Tax Appeal Board states in pertinent part:

The original filing of the petition, and not any subsequent amendment, shall determine whether:

- 1) review of the Property Tax Appeal Board's final decision is afforded in the circuit court or the Appellate Court as provided in Section 16-195 of the Code; and . . . (86 Ill. Adm. Code §1910.31(b)(1)).

The appellant's original appeal petition that was filed with the Property Tax Appeal Board was clear in requesting a reduced total assessment that mathematically totaled \$40,626. As the courts have previously held, "The amount of change sought is fixed at the instant a petition is filed with PTAB." County of Coles v. Property Tax Appeal Board, 275 Ill. App. 3d 945, 948 (4th Dist. 1995).

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 parties presented a total of eight comparable sales to support their respective positions before the Property Tax Appeal Board with two common properties presented by the parties.

As to the criticism by the assessor of appellant's comparables #1 and #2 as an REO/Lender owned property and/or a transfer by HUD, the Property Tax Appeal Board finds 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.

Furthermore, 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.

Therefore, based on these statutes, the Property Tax Appeal Board finds it is appropriate to consider these properties in its analysis.

The Board has given reduced weight to board of review comparable sales #1 through #4, as the sales occurred in 2010 and 2011, dates more remote in time to the valuation date at issue of January 1, 2013 and thus less likely to be indicative of the subject's estimated market value as of the assessment date.

The Board finds the best evidence of market value to be the appellant's comparable sales along with board of review comparables #5 and #6 which are also appellant's comparables #2 and #1, respectively. These four comparables sold between February 2012 and December 2012 for prices ranging from \$134,000 to \$172,900 or from \$89.81 to \$119.69 per square foot of living area, including land. The subject's assessment reflects a market value of \$168,671 or \$130.25 per square foot of living area, including land, which is above the range established by the best comparable sales in this record on a per-square-foot basis.

Based on the foregoing analysis and evidence presented by both parties, the Board finds a reduction in the subject's assessment 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

Member

Klaus Albrecht

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: January 22, 2016

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.