



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

APPELLANT: Enlightened Wellness Enterprises LLC
DOCKET NO.: 13-01418.001-C-1
PARCEL NO.: 12-10-202-009

The parties of record before the Property Tax Appeal Board are Enlightened Wellness Enterprises LLC, the appellant, by attorney Joanne Elliott of Elliott & Associates, P.C. in Des Plaines; 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: \$98,391
IMPR: \$113,265
TOTAL: \$211,656**

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 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 commercial condominium unit comprised of the entire first floor of a two-story building. The subject condominium has 4,032 square feet of building area. The building was constructed in 1960. The property 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 December 27, 2012 for a price of \$635,000. The appellant completed Section IV - Recent Sale Data on the appeal disclosing the property was purchased from James Street LLC and the parties to the transaction were not related. The appellant indicated the property was sold by the owner and was purchased by a tenant. The appellant submitted a copy of a CoStar listing disclosing property had been on the market for 884 days. The appellant also submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration associated with the subject's sale disclosing the purchase price and further indicating the property was advertised for sale.

In further support of the overvaluation argument the appellant submitted information on two comparable sales improved with commercial medical office buildings with 5,307 and 4,249 square feet of building area, respectively. The comparables were constructed in 2009 and 1980, respectively. These comparables sold in August 2011 and October 2011 for prices of \$835,000 and \$640,000 or for \$157.33 and \$150.62 per square foot of building area, respectively. 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 \$236,707. The subject's assessment reflects a market value of \$710,618 or \$176.24 per square foot of building area, land included, when using the 2013 three year average median level of assessment for Kane County of 33.31% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted evidence provided by the township assessor. The assessor noted the subject property was constructed in 1960 and completely renovated in 1989. The assessor also questioned the arm's length nature of the subject's sale due to the fact there was a relationship between the purchaser and the owner of the second floor condominium.

The board of review submission included an income approach developed by the assessor estimating the subject property had a market value of \$730,301. The assessor also submitted information on three comparable sales located in Geneva, Wheaton and Naperville. The comparables were improved with two-story or part one-story and part two-story buildings that ranged in size

from 2,112 to 6,828 square feet of building area and were constructed from 1895 to 1930. The comparables sold from July 2010 to October 2012 for prices ranging from \$300,000 to \$1,150,000 of from \$142.05 to \$168.42 per square foot of building area.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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 Supreme Court of Illinois 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 to do so. 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).

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 best evidence of market value to be the purchase of the subject property in December 2012 for a price of \$635,000 or \$157.49 per square foot of building area. The appellant provided evidence demonstrating the sale had elements of an arm's length transaction. The appellant provided evidence disclosing the parties to the transaction were not related, the property had been advertised on the open market and the property had been on the market for 884 days. In further support of the transaction the appellant submitted a copy of the transfer declaration disclosing the property was advertised for sale. The Board finds the purchase price is below the market value

reflected by the assessment. The record also had five comparable sales submitted by the parties that sold for unit prices ranging from \$142.05 to \$168.42 per square foot of building area. The subject's purchase price falls within this range on a square foot basis, which supports the conclusion that purchase price is reflective of fair cash value. Based on this record the Board finds a reduction in the subject's assessment is 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

K. L. Fan

Mario Alvarez

Member

Member

JR

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.