



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

APPELLANT: Gus Korolis
DOCKET NO.: 13-01534.001-R-1
PARCEL NO.: 02-33-160-008

The parties of record before the Property Tax Appeal Board are Gus Korolis, 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: \$15,917
IMPR.: \$48,283
TOTAL: \$64,200

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 is improved with a two-story dwelling of frame construction with 3,130 square feet of living area. The dwelling was constructed in 2008.¹ Features of the home include

¹ The Property Tax Appeal Board finds the best evidence of size to be contained in the appellant's appraisal which contained a schematic diagram with measurements and calculations.

a full unfinished basement, central air conditioning and two-car integral garage. The property is located in Pingree Grove, Rutland 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 May 13, 2013 for a price of \$192,600. The appellant indicated the sellers were Clark and Jill Peterson and the parties were not related. The appellant further indicated that the property was sold through a Realtor (Re/Max) and the property had been listed in the Multiple Listing Service (MLS). The appellant provided a copy of the subject's MLS listing disclosing the property was listed on November 21, 2012 for a price of \$200,000, a contract was entered on January 9, 2013 and the property closed on May 13, 2013. The listing sheet indicated the marketing time was 50 days and the transaction was a short sale. The appellant also submitted a copy of the settlement statement documenting the sale.

In further support of the overvaluation argument the appellant submitted a copy of an appraisal prepared in connection with the transaction estimating the subject property had a market value of \$193,000 as of April 6, 2013. In estimating the market value the appraiser developed the sales comparison approach to value using five comparable sales improved with two-story dwellings that ranged in size from 2,512 to 3,233 square feet of living area. The dwellings ranged in age from five to eight years old. The sales occurred in 2012 and 2013 for prices ranging from \$185,000 to \$199,900 or from \$61.59 to \$79.58 per square foot of living area, including land.

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 property of \$78,937. The subject's assessment reflects a market value of \$236,977 or \$75.71 per square foot of living 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 Rutland Township Assessor. The assessor noted the subject property was purchased as a short sale. She further stated that appraisal comparable

sales #3 and #4 occurred in 2013 and each was a foreclosure and should not be considered.

In support of the assessment the assessor provided information on four comparable sales improved with two-story dwellings that ranged in size from 3,059 to 3,085 square feet of living area. The comparables were constructed from 2005 to 2013. Each comparable had a basement, three comparables were noted to have central air conditioning and each comparable had an integral and/or attached garage with either 461 or 666 square feet of building area. The sales occurred from March 2010 to June 2013 for prices ranging from \$237,149 to \$275,000 or from \$77.12 to \$89.90 per square foot of living area, including land.

In rebuttal the appellant argued that board of review sales #1 and #4 were new construction sales. The appellant also noted that sale #2 sold more than 33 months prior to the January 1, 2013 assessment date at issue. The appellant also critiqued the sales and argued the board of review did not submit documentation demonstrating the sales were "arm's length transactions."

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). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

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 May 2013 for a price of \$192,600. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The evidence disclosed the parties to the transaction were not related, the property was sold using a Realtor and the property had been advertised on the open market for 50 days. In further support of the transaction the appellant submitted a copy of the settlement statement and a copy of the MLS listing sheet for the subject property. The appellant also submitted an appraisal estimating the subject property had a market value of \$193,000 as of April 6, 2013, which supports the conclusion the purchase price is indicative of fair cash value. The Board finds the purchase price is below the market value reflected by the assessment.

The assessor noted the subject property sold as a "short sale" and asserted comparable sales #3 and #4 in the appraisal were foreclosures. 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.

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.

Based on these statutes, the Property Tax Appeal Board finds it is appropriate to consider these sales in revising and correcting the subject's assessment.

The board of review submitted information on four comparable sales. The Board gives less weight to comparable sales #1 and #4 as they were new at the time of sale. The Board also gives less weight to board of review sale #2 as it sold in March 2010, which is not proximate in time to the assessment date at issue. The Board further finds the one remaining sale submitted by the board of review is not sufficient to refute the fact the subject property sold after being exposed on the open market in a transaction involving parties that were not related. Based on this record the Board finds the purchase price is the best indication of market value as of January 1, 2013, and 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



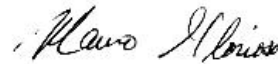
Member



Member



Acting 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: November 20, 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.