



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

APPELLANT: Tirell, LLC
DOCKET NO.: 13-01580.001-R-1
PARCEL NO.: 06-34-228-003

The parties of record before the Property Tax Appeal Board are Tirell, LLC, the appellant, by attorney Dennis M. Nolan of the Law Office of Dennis M. Nolan, P.C. in Bartlett; 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: \$9,931
IMPR.: \$23,236
TOTAL: \$33,167**

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) contesting 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 one-story single family dwelling of frame construction with 1,056 square feet of living area. The dwelling was constructed in 1965. Features of the home include a full basement that is partially finished, central air conditioning and a detached garage with 416 square feet of

building area. The property has an 8,505 square foot site and is located in South Elgin, Elgin 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 July 17, 2013 for a price of \$99,500. The appellant indicated the property was purchased from the Department of Housing and Urban Development (HUD). The appellant also indicated the property was sold through a Realtor. The appellant provided a copy of the settlement statement and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration associated with the sale. The transfer declaration indicated the property was advertised for sale. 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 \$44,388. The subject's assessment reflects a market value of \$133,257 or \$126.19 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 Elgin Township Assessor. The assessor noted the subject property sold in July 2013 as a foreclosure in a cash transaction. A copy of the Multiple Listing Service (MLS) listing sheet for the subject property was submitted disclosing the property was listed for sale on March 2, 2013 with a list price of \$117,000. The listing sheet reported a contract was entered on June 7, 2013 and the property closed on July 17, 2012. The marketing time was reported to be 98 days.

The assessor also provided a grid analysis using five comparable sales improved with one-story dwellings of frame or frame with brick trim construction that ranged in size from 936 to 1,056 square feet of living area. The comparables were constructed from 1961 to 1971. Each comparable was described as having a finished basement, four comparables had central air conditioning and each comparable had a garage ranging in size from 264 to 528 square feet of building area. These comparables sold from July 2011 to June 2013 for prices ranging from \$123,500 to \$163,000 or from \$132 to \$162 per square foot of living area, including land, rounded.

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).

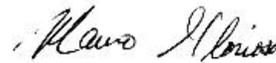
When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §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 July 2013 for a price of \$99,500. 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 was sold using a Realtor and the property had been advertised on the open market. In further support of the transaction the appellant submitted a copy of the settlement statement disclosing that a broker's commission was paid. The record also contained a copy of the transfer declaration indicating the property was advertised for sale. Furthermore, the record contained a copy of the MLS listing

sheet associated with the subject property disclosing the property had been listed on the market for 98 days prior to the purchase. The listing sheet also disclosed the property sold "as is", which calls into question the condition of the home at the time of sale, and reported the property was REO/Lender Owned, Pre-Foreclosure. The Board finds the purchase price is below the market value reflected by the assessment. The Board finds the comparable sales provided by the board of review do not overcome the fact the property was purchased after being exposed on the open market for 98 days in a transaction involving unrelated parties. 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



Member

Member



Member

Acting 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.