



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

APPELLANT: Justin Plank
DOCKET NO.: 13-01660.001-R-1
PARCEL NO.: 12-19-107-005

The parties of record before the Property Tax Appeal Board are Justin Plank, the appellant, by attorney Michael 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: \$35,040
IMPR: \$78,293
TOTAL: \$113,333**

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 single family dwelling of frame construction with 3,009 square feet of living area. The dwelling was constructed in 2004. Features of the home include a full unfinished basement, central air conditioning, one fireplace and a three-car attached garage.

The property has an 11,620 square foot site and 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 July 23, 2013 for a price of \$340,000. The appellant disclosed the sellers were Carlos E. Dominquez and Kim A. Eno and also indicated the parties were not related. The appellant further indicated that the property was sold through a Realtor, the property had been advertised in the Multiple Listing Service (MLS) and the property had been on the marketed for 66 days. The appellant submitted a copy of the MLS listing sheet for the subject property disclosing the property was listed on March 26, 2013 for a price of \$364,900 and closed on July 23, 2013. In further support of the sale the appellant submitted a copy of the settlement statement and a copy of the sales contract. To further support the overvaluation argument the appellant submitted an appraisal estimating the subject property had a market value of \$340,000 as of June 27, 2013. The appraiser developed the sales comparison approach to value using six sales located in Geneva. 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 \$127,056. The subject's assessment reflects a market value of \$381,435 or \$126.76 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.

The board of review noted the subject property sold seven months after the assessment date at issue. In support of its contention of the correct assessment the board of review submitted a statement provided by the township assessor in which she asserted that all of the comparable sales but one contained in the appellant's appraisal were located outside the township. The assessor provided five sales improved with two-story single family dwellings that ranged in size from 2,567 to 3,188 square feet of living area. The comparables were constructed from 2004 to 2010 and were located in the subject's subdivision. Each comparable had a full basement with two being finished, central air conditioning, one fireplace and a three-car garage. The sales occurred from March 2011 to November 2012 for prices ranging from \$379,000 to \$427,500 or from \$134.10 to \$148.29 per square foot of living area, including land.

In rebuttal the appellant submitted a statement asserting the property was purchased in an "arm's length transaction." The appellant also argued the board of review did not submit any evidence to prove the comparable sales provided by the assessor were "arm's length transactions"; commented on the fact that comparable sales #1, #3 and #5 sold from 13 to 21 months prior to assessment date; and further pointed out superior features of the comparables sales in relation to the subject dwelling.

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 \$340,000. 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 66 days. In further support of the transaction the appellant submitted a copy of the MLS listing sheet for the subject property, a copy of the settlement statement and a copy of the sales contract. Additionally, the appellant provided an appraisal prepared in connection with the purchase estimating the subject property had a market value of \$340,000 as of June 27, 2013.

The board of review submitted information on five comparable sales. The Board finds these sales do not refute the appellant's evidence that subject property sold after being exposed on the open market in a transaction involving parties that were not related. Although the board of review noted the subject's transaction occurred seven months after the assessment date, it provided no evidence to challenge the arm's length nature of the transaction. 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

K. L. Fan

Klaus Albrecht

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: December 18, 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.