



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

APPELLANT: Elm Street Homes, LLC
DOCKET NO.: 13-02037.001-R-1
PARCEL NO.: 06-09-430-011

The parties of record before the Property Tax Appeal Board are Elm Street Homes, LLC, the appellant, by attorney Mark Vanecko of the Law Offices of Mark Vanecko, in Chicago; 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: \$17,131
IMPR.: \$37,331
TOTAL: \$54,462

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 part one-story and part two-story frame dwelling that has 2,440 square feet of living area. The dwelling was constructed in 1987. Features include a finished basement, central air conditioning and a 410 square

foot attached garage. The subject property has a .19 acre site. The subject property is located in Elgin Township, Kane County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information pertaining to the subject's recent sale. The appellant's appeal petition indicated the subject property sold in June 2013 for \$163,500 or \$67.01 per square foot of living area including land. The appellant submitted the Multiple Listing Service (MLS) sheet and settlement statement associated with the sale of the subject property. The subject property was listed for sale in the open market for approximately 121 days and the sale was between un-related parties.

The appellant also submitted MLS sheets for three comparable sales to bolster the overvaluation claim. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$65,948. The subject's assessment reflects an estimated market value of \$197,983 or \$81.14 per square foot of living area including land when applying the 2013 three-year average median level of assessment for Kane County of 33.31%.

In support of the subject's assessment, the board of review submitted a comparative analysis of seven suggested comparable sales. The evidence was prepared by the Elgin Township Assessor's Office. The comparables had varying degrees of similarity when compared to the subject. The comparables sold from April 2011 to December 2012 for prices ranging from \$171,000 to \$235,000 or from \$87 to \$108 per square foot of living area including land, rounded. In further support of the subject's assessment, the assessor provided limited information for 11 additional comparables located in the subject's subdivision. The assessor did not prepare a comparative analysis of these properties like the seven aforementioned comparables. They sold for prices ranging from \$190,000 to \$249,900 or from \$82 to \$129 per square foot of living area including land, rounded. The assessor calculated an average sale price of \$211,573 and a median sale price of \$210,000 for these 11 additional properties.

With respect to the evidence submitted by the appellant, the assessor argued the comparables submitted by the appellant are dissimilar to the subject in various aspects. The assessor acknowledged the subject property sold in July 2013, but the property was a "relocation sale." The assessor presented evidence that the subject property was offered for lease for \$1,895 per month. Neither the board of review nor the assessor provided any direct evidence challenging the arm's-length nature of the subject's transaction.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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 Board finds the best evidence of market value contained in this record is the subject's sale price in June 2013 for \$163,500. The Board finds the subject's sale meets the fundamental elements of an arm's-length transaction. The buyer and seller were un-related; the subject property was exposed to the open market; and there is no direct evidence the parties to the transaction were under duress or compelled to buy or sell. The Illinois Supreme Court has defined fair cash value as 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 of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an 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). The subject's assessment reflects an estimated market value of \$197,983, which is more than its recent sale price. The board of review did not present any credible evidence that would demonstrate the subject's sale was not an arm's-length transaction. Therefore, a reduction in the subject's assessment is warranted.

The Board further finds the comparable sales submitted by the appellant and the board of review does not overcome the subject's arm's-length sale price as provided by the aforementioned controlling Illinois case law. Additionally, four sales submitted by the board of review occurred in 2011, which are dated and less reliable indicators of market value as of the subject's January 1, 2013 assessment date. Finally, two comparables submitted by the board of review are smaller in dwelling size when compared to the subject.

Based on this analysis, the Board finds the subject property is overvalued and a reduction in its assessment is justified. Since fair market value has been established, Kane County's 2013 three year average median level of assessment of 33.31% shall apply.

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: 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.