



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

APPELLANT: DTG & Dady Investments
DOCKET NO.: 13-02272.001-R-1
PARCEL NO.: 15-20-376-013

The parties of record before the Property Tax Appeal Board are DTG & Dady Investments, the appellant, by Jerri K. Bush, Attorney at Law, 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: \$7,149
IMPR.: \$32,180
TOTAL: \$39,329

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 one-story dwelling of frame construction with 2,046 square feet of living area. The dwelling was constructed in 1954. Features of the home include a crawl-space foundation, central air conditioning, a fireplace and a detached two-car garage of 660 square feet of building area. The property is located in Aurora, Aurora 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 March 28, 2013 for a price of \$118,000. The appellant also provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor from Compass REO, agent Marisa Barragan, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 68 days. A copy of the Multiple Listing Service data sheet was provided indicating the property was "sold as-is." 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 \$46,143. The subject's assessment reflects a market value of \$138,526 or \$67.71 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 response to the appeal, the board of review noted that the subject property sold after the assessment date of January 1, 2013. Furthermore, this property was listed for sale on December 10, 2012 with an asking price of \$144,900. In further support, the board of review submitted a copy of the Listing & Property History Report concerning the subject's offering which reflected that after the original listing the price reduced by \$10,000 on December 29, 2012; the price was again reduced to \$126,900 on January 17, 2013; and the price was reduced to \$117,900 on February 6, 2013 prior to the sale to the appellant for \$118,000. Additionally, it was noted that the sale was a "bank sale," the property was transferred by Special Warranty Deed and it was a "foreclosure."

In further support of its contention of the correct assessment the board of review stated that comparable sales "support mass appraisal uniformity." A township assessor grid analysis with information on three comparable sales was submitted. The comparables consist of one-story frame, brick or frame and masonry dwellings that were built in 1954 or 1955. The homes range in size from 1,761 to 1,967 square feet of living area. Two of the comparables feature basements of more than 1,500 square feet of building area. Each home has central air

conditioning, a fireplace and a garage ranging in size from 484 to 609 square feet of building area. One comparable also has a gazebo. The properties sold between May 2011 and October 2012 for prices ranging from \$155,000 to \$223,500 or from \$78.84 to \$113.62 per square foot of living area, including land.

Since the subject's estimated market value based on its assessment on January 1, 2013 is less than the original asking sale price of \$144,900, the board of review contends that the subject property is fairly assessed and therefore, the board of review requests 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.

As to the REO/foreclosure of the subject property, the Board takes judicial notice that 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.

Furthermore, 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 the sale of the subject property in revising and correcting the subject's assessment.

On this record and in light of the foregoing statutory provisions, the Property Tax Appeal Board finds the best evidence of market value as of January 1, 2013 to be the purchase of the subject property in March/April, 2013, a date within months of the assessment date after the property had been offered on the open market, for a price greater than its final sale price. The Board finds the purchase price of \$118,000 is below the market value reflected by the assessment of \$138,526. Furthermore, the Board finds the board of review did not present any substantive evidence to challenge the arm's length nature of the sale transaction or to refute the contention that the purchase price was reflective of market value of a property sold in "as-is" condition with numerous price reductions during the time it was listed on the open market. The Board also finds board of review sales #1 and #2 are dissimilar to the subject property by having large basements which is not a feature of the subject dwelling.

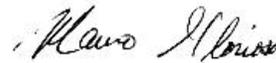
As to board of review comparable sale #3, one sale does not overcome the sale price of the subject property. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the 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 Illinois Supreme Court 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 so to do. 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). Our supreme court has at least indicated that a sale of property during the tax year in question is a "relevant factor" in considering the validity of

an assessment. [citations omitted]. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

Based on this record, the aforesaid statutory and case law provisions, the Board finds the subject property is overvalued and a reduction in the subject's assessment commensurate with the appellant's request is warranted.

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.