



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

APPELLANT: David Lockhart
DOCKET NO.: 13-02273.001-R-1
PARCEL NO.: 15-17-480-011

The parties of record before the Property Tax Appeal Board are David Lockhart, 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: \$3,095
IMPR.: \$8,237
TOTAL: \$11,332**

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 676 square feet of living area. The dwelling was constructed in 1952. Features of the home include a crawl-space foundation and a detached 400 square foot garage. The property has a 5,280 square foot site and 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 July 26, 2012 for a price of \$34,000. 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 with Coldwell Banker, agent Theresa Misner, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 9 days. The appellant also provided a copy of the Multiple Listing Service data sheet reflecting that the property was originally listed with an asking price of \$38,500 and was a "short sale." In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the purchase price and date. 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 \$18,475. The subject's assessment reflects a market value of \$55,464 or \$82.05 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 asserted the subject's 2012 sale was a "short sale" and the buyer "is an investment company."

In support of its contention of the correct assessment the board of review submitted two grid analyses one with equity data and one with comparable sales. The equity data will not be further addressed in this decision as equity evidence is not responsive to the appellant's overvaluation argument.

The board of review submitted information gathered by the township assessor on three comparable sales of one-story frame dwellings that were built between 1952 and 1961. The homes contain either 672 or 864 square feet of living area. One comparable has a full basement and two comparables have central air conditioning and garages. The properties were sold between January 2010 and October 2012 for prices ranging from \$72,000 to \$79,000 or from \$86.81 to \$107.14 per square foot of living area, including land.

Based on this evidence and argument, 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.

As to the "short sale" 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. [Emphasis added.]

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 instructive and therefore 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 July, 2012, approximately six months prior to the assessment date at issue 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 \$34,000 is below the market value reflected by the assessment of \$55,464. 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 as of the time of sale. The Board also finds board of review sale #1 is dissimilar to the subject property by having full basement which is not a feature of the subject dwelling. As to comparable sale #2, this sale occurred in January 2010, a date three years prior to the assessment date at issue and therefore is less likely to be indicative of the subject's estimated market value as of the assessment date.

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 statutes and case law, the Board finds the subject property is overvalued and a reduction

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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

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.