



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

APPELLANT: William & Barbara Sweet
DOCKET NO.: 13-02278.001-R-1
PARCEL NO.: 15-06-201-034

The parties of record before the Property Tax Appeal Board are William & Barbara Sweet, the appellants, 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: \$5,158
IMPR.: \$31,838
TOTAL: \$36,996

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 two-story and part one-story townhouse of frame construction with 1,460 square feet of living area. The dwelling was constructed in 1997. Features of the townhome include central air conditioning and an attached/integral two-car garage of 400 square feet of building

area. The property is located in North Aurora, Aurora Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on March 18, 2013 for a price of \$111,000. The appellants 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 Century 21, agent Bernado Garcia, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 106 days. A copy of the Multiple Listing Service data sheet was provided indicating the property had an original asking price of \$99,000 on November 6, 2012 and was a "short sale." The appellants submitted a copy of the Listing & Property History Report on the offering indicating the property was first listed in August 2012 with an asking price of \$115,000 with a price reduction about a month later to \$109,500 and when the property was again listed in November 2012 the asking price was now \$99,000. Based on this evidence, the appellants 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 \$40,728. The subject's assessment reflects a market value of \$122,270 or \$83.75 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 above its asking price by \$12,000 "as a [short sale] with sales in the neighborhood supporting the current assessed value."

In further 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 appellants' overvaluation argument.

The board of review submitted information gathered by the township assessor on three comparable sales along with copies of the applicable Multiple Listing Service data sheets. The comparables consist of part two-story and part one-story frame townhouses that were built in 1997 or 1998. The homes contain

either 1,263 or 1,520 square feet of living area. Each comparable has central air conditioning and an attached/integral garage. The properties were sold between February 2010 and June 2012 for prices ranging from \$125,000 to \$155,000 or from \$95.39 to \$122.72 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 appellants contend 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 appellants 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 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, 2013, a date within months of the assessment date after the property had been offered on the open market, for a price less than its final sale price. The Board finds the purchase price of \$111,000 is below the market value reflected by the assessment of \$122,270. The appellants also provided evidence demonstrating the sale had the elements of an arm's length transaction. 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 for more than the asking price and having been listed originally on the open market in August 2012 for an asking price of \$115,000. As to comparable sale #3, this sale occurred in February 2010, a date nearly 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 sales #1 and #2, these sales do not overcome the arm's length 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 in the subject's assessment commensurate with the appellants' 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.