



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

APPELLANT: Joshua Musser
DOCKET NO.: 13-02284.001-R-1
PARCEL NO.: 15-14-101-007

The parties of record before the Property Tax Appeal Board are Joshua Musser, 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: \$5,975
IMPR.: \$14,023
TOTAL: \$19,998**

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 single-family dwelling of frame construction with 768 square feet of living area. The dwelling was constructed in 1958. Features of the home include a full basement and a detached 352 square foot garage. The property has a 10,890 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 June 13, 2012 for a price of \$60,000. 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, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 419 days. In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the purchase date and price which also depicted the payment of brokers' fees to two agencies. A copy of the Multiple Listing Service data sheet depicted an original asking price of \$45,000. A copy of the Listing & Property History Report depicts the subject was originally offered for sale in February 2011 with an asking price of \$143,900 with subsequent price reductions to \$138,900, \$95,000, \$85,000, \$79,000 before the last asking price of \$45,000 in May 2012. 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 \$27,479. The subject's assessment reflects a market value of \$82,495 or \$107.42 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 stated:

The subject sold \$15,000 above its asking price only on the market for 10 days. It appears to have had multiple offers being priced for quick sale. Other sales in the area shows the subject is assessed fairly.

In support of its contention of the correct assessment the board of review submitted data gathered by the township assessor who reported that the sale of the subject was a foreclosure. The board of review also submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration which indicates that the property was advertised prior to its sale in June 2012 for \$60,000.

The township assessor prepared a grid with information on five comparable sales located an unknown distance from the subject

property. The comparables consist of one-story frame dwellings that were built between 1956 and 1964. The homes range in size from 864 to 1,067 square feet of living area and feature full basements. Three of the comparables have central air conditioning and each has a garage ranging in size from 288 to 528 square feet of building area. The properties sold between March 2011 and July 2012 for prices ranging from \$86,500 to \$117,000 or from \$84.35 to \$118.90 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.

In written rebuttal, the appellant's counsel noted that the board of review did not provide any evidence disputing the arm's length nature of the sale transaction. Nor did the board of review provide any evidence that the sale price was not reflective of market value and the subject's asking price is also less than its estimated market value as reflected by its assessment. In light of the subject's recent sale price, the appellant contends that the comparable sales are not relevant.

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 June 2013 for a price of \$60,000. 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 419 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 Listing & Property History Report. Additionally, the board of review reported the subject's purchase date and price in its grid analysis and provided a copy of the PTAX-203 Illinois Real Estate Transfer Declaration. The Property Tax Appeal Board finds the purchase price of \$60,000 is below the market value reflected by the assessment of \$82,495.

The assessor noted the subject property sold as a foreclosure. 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.

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 appropriate to consider the sale of the subject property in revising and correcting the subject's assessment.

The Board also finds the board of review did not present any evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value. 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 for 419 days in a transaction involving parties that were not related. Moreover, four of the sales occurred in 2011, dates more remote in time to the assessment date of January 1, 2013 and thus less likely to be indicative of the subject's estimated market value. To the extent that the board of review has relied upon comparable sale #5, this property sold in July 2012, a date more remote in time to the assessment date than the sale of the subject property in June 2013. Furthermore, the sale of comparable #5 does not support the subject's estimated market value as reflected by its assessment of \$82,495 or \$107.42 per square foot of living area, including land, when comparable #5 sold in July 2012 for \$90,000 or \$84.35 per square foot of living area, including land.

Based on this record the Board finds the subject's assessment is not reflective of market value and a reduction in the subject's assessment commensurate with the appellant's request 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



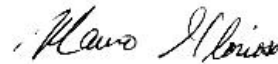
Member



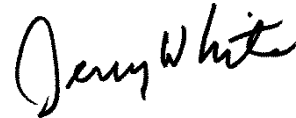
Member



Acting Member



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: December 18, 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.