



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

APPELLANT: Larry Kenzal
DOCKET NO.: 13-02285.001-R-1
PARCEL NO.: 15-17-116-010

The parties of record before the Property Tax Appeal Board are Larry Kenzal, 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: \$2,063
IMPR.: \$16,435
TOTAL: \$18,498

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 two-story townhouse of frame construction with 1,452 square feet of living area. The dwelling was constructed in 1973. Features of the townhome include a full basement, central air conditioning and a detached 264 square foot garage. The property has a 1,986 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 September 28, 2012 for a price of \$55,500. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold by Freddie Mac 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 197 days. In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the purchase price and date. A copy of the Multiple Listing Service data sheet reflecting an original listing price of \$69,900 as of February 23, 2012 was also submitted which indicated the property was "sold 'as-is'; utilities were not on; electric meter is detached; "HOA working on problem." 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 \$23,790. The subject's assessment reflects a market value of \$71,420 or \$49.19 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 the appeal, the board of review contended that the appellant sold the subject property on February 20, 2014 for \$84,000 and therefore, the board of review "believes the subject is being fairly assessed also based on other sales in the area."

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 appellant's overvaluation argument.

The board of review submitted information gathered by the township assessor on four comparable sales of one-story or two-story frame townhomes that were built in 1973. The townhomes range in size from 836 to 1,452 square feet of living area. Three of the comparables have basements and each comparable has central air conditioning and a 264 square foot garage. The properties were sold between February 2010 and December 2012 for prices ranging from \$70,000 to \$101,900 or from \$48.21 to \$95.77 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. 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.

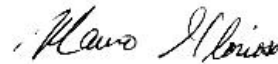
The Board finds the best evidence of market value to be the purchase of the subject property in September 2012, a little more than three months prior to the assessment date at issue of January 1, 2013, for a price of \$55,500. The appellant provided evidence demonstrating the sale had the elements of 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 197 days. In further support of the transaction the appellant submitted a copy of the MLS listing sheet for the

subject property and a copy of the Settlement Statement. The Board finds the September 2012 purchase price of \$55,500 is below the market value reflected by the assessment of \$71,420 as of January 1, 2013. The Board also finds the board of review did not present any substantive evidence to challenge the arm's length nature of the September 2012 sale transaction or to refute the contention that the purchase price was reflective of market value of a property sold in "as-is" condition after it had been listed on the open market for 197 days. The board of review's reliance upon the sale price of the property in February 2014 after updates and/or repairs to the property have been made is misplaced for evidence of the property's market value as of January 1, 2013.

The board of review also submitted information on four comparable sales. The Board has given no weight to board of review comparable #2 as this dwelling is significantly smaller than the subject townhome. The Board has also given little weight to board of review comparable #4 which sold in February 2010, a date nearly two years prior to the assessment date at issue. Futhermore, the Board finds the remaining sales, comparables #1 and #3, do not refute the appellant's evidence that subject property sold for \$55,500 after being exposed on the open market for 197 days in a transaction involving parties that were not related. Based on this record the Board finds the purchase price is the best indication of market value as of January 1, 2013 and reduction in the subject's assessment 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



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.