



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

APPELLANT: William Roskuszka
DOCKET NO.: 13-02298.001-R-1
PARCEL NO.: 15-10-233-007

The parties of record before the Property Tax Appeal Board are William Roskuszka, 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: \$4,126
IMPR.: \$18,205
TOTAL: \$22,331**

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 988 square feet of living area. The dwelling was constructed in 1973. Features of the home include a full basement, central air conditioning and a detached 576 square foot garage. The property has a 9,148 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 November 9, 2012 for a price of \$67,000. 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 150 days. In further support of the transaction the appellant submitted a copy of the Settlement Statement, the Multiple Listing Service data sheet and the Listing & Property History Report. The Settlement Statement reveals the disbursement of brokers' fees to two agencies. The listing data reflects an original asking price in April 2012 of \$69,900 with a subsequent price reduction to \$65,000. 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 \$36,528. The subject's assessment reflects a market value of \$109,661 or \$110.99 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 the subject was a short sale "selling above its asking price." Furthermore, the board of review contended that the subject's assessment is supported by area sale prices.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on three equity comparables and on two comparable sales. The Property Tax Appeal Board will not further address the equity data that was submitted as this is not responsive to the appellant's overvaluation appeal.

As to the sales presented there is no information regarding proximity to the subject, although comparable #2 is located on the same street as the subject property. The comparables consist of 1-story dwellings of frame construction that were built in 1973. The dwellings contain 988 and 1,052 square feet of living area, respectively. Each comparable has a crawl-space foundation and a garage of either 528 or 616 square feet of building area. The comparables sold in May 2010 and December

2012 for \$107,500 and \$130,000 or for \$102.19 and \$131.58 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 November 2012, two months prior to the assessment date of January 1, 2013, for a price of \$67,000. 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 150 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 sale date and price in its comparable sales grid analysis. The Board finds the purchase price of \$67,000 is below the market value reflected by the assessment of \$109,661.

The board of review submitted information on two 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 150 days in a transaction involving parties that were not related. Moreover, comparable sale #1 occurred in 2010, a date 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 the asking price of the subject property of \$65,000, including land, the only recent sale presented by the board of review which is comparable to the subject does not support the subject's asking price since comparable #2 sold in December 2012 for \$107,500, 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

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: December 18, 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.