



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

APPELLANT: David Lockhart
DOCKET NO.: 13-02304.001-R-1
PARCEL NO.: 15-34-130-014

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: \$5,474
IMPR.: \$13,646
TOTAL: \$19,120

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 840 square feet of living area. The dwelling was constructed in 1926. Features of the home include a full basement 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 June 1, 2012 for a price of \$28,801. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold at auction through a Sheriff's Sale, the property had been advertised on the open market as statutorily required. In further support of the transaction the appellant submitted a copy of the Sheriff's Report of Sale and Distribution and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration indicating the property had been advertised prior to the sale in lieu of foreclosure for \$28,801. 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 \$21,793. The subject's assessment reflects a market value of \$65,425 or \$77.89 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 contended that the subject property was never listed "on the open market" and area sales support the subject's current assessment. Additionally, the board of review reported "a mortgage was pulled on the property on May 30, 2013 for \$200,000."

In further support of its contention of the correct assessment the board of review through the township assessor submitted information on three equity comparables and on three 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. The comparables consist of one-story dwellings of frame construction that were built between 1918 and 1945. The dwellings range in size from 614 and 848 square feet of living area. Each comparable has a full basement and a garage ranging in size from 308 to 560 square feet of building area. The comparables sold between February 2010 and June 2011 for prices ranging from \$86,000 to \$102,500 or from \$101.42 to \$153.91 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 a two-page written rebuttal, counsel for the appellant reiterated the contention that the subject property's sale transaction was an arm's length sale. In response to the contention the property was not advertised, the appellant now reports the applicable statutory provision that mandates publication in a local newspaper in the county (735 ILCS 5/15-1507). According to appellant's counsel such publication must occur at least three consecutive calendar weeks (Sunday through Saturday) once each week, with the first notice not more than 45 days prior to the sale and the last notice not less than 7 days prior to the sale.

As to the mortgage on the subject property, the appellant contends the purpose is for "construction," counsel contends that in accordance with Section 10-20 of the Property Tax Code (35 ILCS 200/10-20) maintenance and repairs to a structure shall not increase the assessed valuation unless the change increases the square footage, materially alters the character and condition of the structure, goes beyond merely prolonging the life of the existing structure or used materials that were greater in value than the replacement value of the materials being replaced. Counsel contends that in accordance with the statutory provision, merely restoring the structure from a state a disrepair does not materially alter the property. In this regard, the board of review provided no evidence that any work on the subject property was more than merely restoring the property from a state of disrepair to a state of standard repair.

As to the comparable sales presented by the board of review, counsel argued that sales in 2010 and 2011 should not be considered indicative of the subject's market value as of January 1, 2013.

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 sales presented by the board of review, the Board has given reduced weight to comparables #1 and #2 which sold in 2010, dates more remote in time to the valuation date of January 1, 2013 and therefore less likely to be indicative of the subject's estimated market value as of the assessment date.

The Board finds the best evidence of market value to be consideration of the sale of the subject property along with consideration of board of review comparable sale #3. The record is clear that the subject property was purchased in June, 2012 for a price of \$28,801 through an auction at a Sheriff's Sale to the highest bidder, but there is no indication as set forth in the Sheriff's Report of Sale and Distribution that this price actually reflects the property's actual market value in terms of its location, size, age and/or condition when considering area property sales. The appellant established that the Sheriff's Sale was published as required by statute and sold for cash to the highest bidder. The Board finds the purchase price of \$28,801 is below the market value reflected by the assessment of \$65,425.

In further support of the subject's estimated market value as reflected by its assessment, the board of review presented comparable #3 which is similar in design, age, size and/or features to the subject dwelling. This property sold in June 2011 for \$86,000.

Giving due consideration to the purchase price of \$28,801 and to comparable sale #3 presented by the board of review of \$86,000, the Board finds the subject property is overvalued based on its assessment and a reduction in the subject's assessment 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: 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.