



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

APPELLANT: James Thoresen
DOCKET NO.: 13-02309.001-R-1
PARCEL NO.: 12-22-132-032

The parties of record before the Property Tax Appeal Board are James Thoresen, 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: \$15,871
IMPR.: \$23,458
TOTAL: \$39,329

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 1,389 square feet of living area. The dwelling was constructed in 1955. Features of the home include a full basement with finished area, central air conditioning, a fireplace and an attached two-car garage. The property has a 9,900 square foot site and is located in Batavia, Batavia 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 January 31, 2012 for a price of \$118,000. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold by the U.S. Department of Housing & Urban Development 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 287 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 the property was originally listed in December 2010 with an asking price of \$136,000 with an escrow amount of \$5,000 "for roof replacement." A copy of the Listing & Property History Report reiterated the original listing date and asking price with a calculation of 287 days on the market for the property. 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 \$51,195. The subject's assessment reflects a market value of \$153,693 or \$110.65 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 wrote, "the closing statement indicates a 203K rehab amount of \$29,095 which when added to the purchase price of \$118,000 is in line with the current assessed value." Additionally, the board of review cited to a February 7, 2012 mortgage amount for the subject of \$139,409 "at a 95% LTV."

In further support of the subject's assessment, the Batavia Township Assessor prepared a spreadsheet of two comparable sales along with applicable property record cards which properties are an unknown distance from the subject. The comparables consist of one-story frame or masonry dwellings that were built in 1950. The homes contain 952 and 1,407 square feet of living area, respectively and feature full or partial basements with finished area, a fireplace and a garage. The comparable parcels contain 20,000 and 40,946 square feet of land area. These properties sold in April 2011 and September 2012 for prices of \$155,000 and

\$245,000 or for \$162.82 and \$174.13 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 reiterated the contention that the subject's sale transaction was an arm's length sale and argued that the board of review presented no evidence to dispute that assertion.

Regarding Section 203(k) loans from the FHA, the appellant argues this is used to reroof and repair the subject property. Counsel argues 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 and the board of review has provided no evidence of repairs that materially altered the property.

As to the mortgage, the appellant's counsel argued the mortgage was obtained 10 months after the assessment date of January 1, 2013 as compared to the purchase of the subject property which occurred 5 months prior to the assessment date. Counsel argued that the sale which occurred more proximate in time to the assessment date is more indicative of value.

Regarding the board of review's comparable sales, the appellant contends that comparable sale #1 backs up to a river, has a parcel size nearly four times the size of the subject and comparable sale #2 similarly has a lot about twice the size of the subject. Additionally, sale #1 occurred in 2011, a date more remote in time to the valuation date of January 1, 2013 and less likely to be indicative of the subject's market value as of the assessment date.

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.

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).

The Board finds the best evidence of market value to be the purchase of the subject property in January, 2012 for a price of \$118,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The Board finds the purchase price of \$118,000 is below the market value reflected by the assessment of \$153,693. The Board 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 at the time of sale given that the dwelling apparently needed a new roof as shown by the escrow of \$5,000 set forth in the MLS data sheet. Moreover, the assessing officials did not address how the installation of a new roof and/or a Sec. 203(k) FHA loan for rehabilitation/repairs would warrant a higher market value without more evidence of a material improvement in the property. (See 35 ILCS 200/10-20)

The board of review submitted information on two comparable sales. The Board has given little weight to comparable sale #1 which occurred in 2011, a date more remote in time to the valuation date of January 1, 2013 and less likely to be indicative of the subject's estimated market value. Moreover, the Board finds sale #2 does not refute the appellant's evidence that subject property sold after being exposed on the open market for 287 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 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.