



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

APPELLANT: Linda Newton-Toniolo & John Toniolo
DOCKET NO.: 13-02313.001-R-1
PARCEL NO.: 08-14-328-009

The parties of record before the Property Tax Appeal Board are Linda Newton-Toniolo & John Toniolo, the appellants, 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: \$17,668
IMPR.: \$78,989
TOTAL: \$96,657

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 1.5-story single-family dwelling of frame and masonry construction with 2,978 square feet of living area. The dwelling was constructed in 1978. Features of the home include a partial basement, a fireplace and an attached 600 square foot garage. The property is located in St. Charles, Campton Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on February 28, 2013 for a price of \$290,000. The appellants 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 272 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase date and price and depicting the payment of brokers' fees to two realty agencies; a copy of the Multiple Listing Service data sheet depicting the original listing date of March 19, 2012 with an asking price of \$339,900; and a copy of the Listing & Property History Report depicting the original listing price and subsequent price reductions until a final asking price of \$300,000 that was initially made as of October 29, 2012. Based on this evidence, the appellants 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 \$103,323. The subject's assessment reflects a market value of \$310,186 or \$104.16 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 support of its contention of the correct assessment the board of review relied upon data prepared by the township assessor who reported in part that the subject property was purchased in February 2013 through an Executor's Deed and the "assessment should not reflect current year sales." In support of the subject's assessment, the assessor prepared a spreadsheet with information on five comparable sales located in St. Charles or Elburn with no information as to the proximity to the subject property. The comparables consist of 1.5-story frame, brick or frame and brick dwellings that were built between 1975 and 1989. The homes range in size from 2,551 to 3,120 square feet of living area and feature basements, two of which are lookout style and one of which has finished area and is a walkout style. The homes each have central air conditioning, one or two fireplaces and a garage ranging in size from 528 to 864 square feet of building area. These properties sold between May 2010 and December 2012 for prices ranging from \$287,000 to \$450,000

or from \$110.73 to \$147.54 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 appellants contend 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 appellants 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 February 2013 for a price of \$290,000. The appellants 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 272 days. In further

support of the transaction the appellants 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 submitted a copy of the property record card and a grid sheet with the subject which indicated the subject sold in February 2013 for \$290,000. The Board finds the purchase price of \$290,000 is below the market value reflected by the assessment of \$310,186.

The board of review also submitted information on five comparable sales. The Board has given little weight to comparable #2 which sold in May 2010, a date remote in time from the valuation date of January 1, 2013. The Board further finds the remaining four sales do not refute the appellants' evidence that the subject property sold after being exposed on the open market for a period of 272 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 appellants' 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.