



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

APPELLANT: Jessica Starck
DOCKET NO.: 13-02319.001-R-1
PARCEL NO.: 11-36-326-005

The parties of record before the Property Tax Appeal Board are Jessica Starck, 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: \$10,000
IMPR.: \$78,325
TOTAL: \$88,325**

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 single-family dwelling of frame and masonry construction with 3,563 square feet of living area. The dwelling was constructed in 2005. Features of the home include a full basement, central air conditioning, a fireplace and a 700 square foot garage. The property is located in North Aurora, Blackberry 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 December 21, 2012 for a price of \$265,000. 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 138 days. In further support of the transaction the appellant 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 a listing date of July 2, 2012 with an asking price of \$349,500 and describing the subject as "sold as 'repaired'"; and a copy of the Listing & Property History Report depicting numerous listings of the subject property with an asking price as high as \$429,000 with subsequent price reductions to a final asking price as of October 23, 2012 of \$279,900. 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 \$119,326. The subject's assessment reflects a market value of \$358,229 or \$100.54 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 an argument and evidence prepared by Uwe R. Rotter, Blackberry Township Assessor. Rotter argued that the subject property was transferred by a Special Warranty Deed and that guidelines from both Kane County and the Illinois Department of Revenue do not permit consideration of sales via Special Warranty Deed "in our analysis." In light of this method of title transfer, the township assessor contends that the taxpayer does not meet the definition of a "knowledgeable buyer" as the buyer has purchased into the risk of not knowing the title history and potential future issues in return for a lower purchase price. The assessor further contends that "pressure" exists on behalf of the seller to sell the property quickly and at a lower price. A copy of the PTAX-203 Illinois Real Estate Transfer Declaration was submitted indicating the property was a "Bank REO," the seller was a financial

institution or government agency and the property was advertised for sale.

In further support of the subject's assessment, the township assessor submitted a grid analysis with information on five comparable sales located an unknown distance from the subject property. The comparables consist of two-story frame and masonry dwellings, two of which were built in 2004 and 2007; three of which have no date of construction information. The homes range in size from 3,227 to 3,537 square feet of living area and feature full basements, one of which is a lookout style. The homes have central air conditioning, a fireplace and a garage ranging in size from 599 to 700 square feet of building area. The properties sold between September 2011 and March 2013 for prices ranging from \$315,000 to \$371,000 or from \$93.56 to \$114.97 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, counsel for the appellant reiterated the applicable case law and listing history of the subject to support the contention that the purchase price reflects the property's market value. Appellant's counsel also noted that the board of review did not provide any evidence disputing the arm's length nature of the sale transaction. Nor did the board of review provide any evidence that the sale price was not reflective of market value. Furthermore, the subject's asking price was less than the estimated market value as reflected by 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. 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 assessor noted the subject property sold as a foreclosure via Special Warranty Deed for ownership transfer. Section 1-23 of the Code defines compulsory sale as:

"Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete. 35 ILCS 200/1-23.

Section 16-183 of the Code provides that the Property Tax Appeal Board is to consider compulsory sales in determining the correct assessment of a property under appeal stating:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. 35 ILCS 200/16-183.

Based on these statutes, the Property Tax Appeal Board finds it instructive and appropriate to consider the sale of the subject property in revising and correcting the subject's assessment.

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 Board finds the best evidence of market value to be the purchase of the subject property in December 2012, a month prior to the assessment date at issue, for a price of \$265,000. 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 138 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 submitted a copy of the transfer declaration further indicating the property was advertised for sale. The Board finds the purchase price of \$265,000 is below the market value reflected by the assessment of \$358,229.

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).

The board of review submitted information on five comparable sales numbered #1, #2, #3, #5 and #6. The Board has given little weight to board of review sales #2 and #3 which occurred in September and October 2011, dates more remote in time to the valuation date at issue of January 1, 2013 and thus less likely to be indicative of the subject's estimated market value as of the assessment date. The Board further finds comparable sales #1, #5 and #6 do not refute the appellant's evidence that subject property sold after being exposed on the open market for 138 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.