



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

APPELLANT: Barbara Flanagan
DOCKET NO.: 13-02336.001-R-1
PARCEL NO.: 06-28-205-037

The parties of record before the Property Tax Appeal Board are Barbara Flanagan, 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: \$8,425
IMPR.: \$19,072
TOTAL: \$27,497

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 townhome of frame construction with 1,446 square feet of living area. The townhouse was constructed in 1991. Features of the townhome include central air conditioning and an integral 211 square foot garage. The property is located in Elgin, Elgin 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 30, 2013 for a price of \$82,500. 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 146 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 depicting the property was sold "as-is" and was an REO/Lender Owned, Pre-Foreclosure; and a copy of the Listing & Property History Report depicting the original listing date of July 20, 2012 with an asking price of \$89,800. 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 \$35,256. The subject's assessment reflects a market value of \$105,842 or \$73.20 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 submitted a statement from the Elgin Township Assessor's Office asserting the subject property was purchased as a foreclosure in January 2013 for cash in "as-is condition" after having been on the market for 146 days. Additional documentation asserted that approximately four months after the sale, the property was rented for \$1,400 per month. A copy of the Multiple Listing Service rental information was submitted noting the property had been "beautifully remodeled."

In support of its contention of the correct assessment the board of review through the township assessor submitted information on eighteen comparable townhome sales in the subject's subdivision along with eight townhome sales "in close proximity" to the subject's subdivision although these latter comparables were larger in dwelling size.

The eighteen area sales were improved with townhomes that were built between 1988 and 1992. The townhomes range in size from 1,133 to 1,446 square feet of living area and feature a one-car garage. The comparables sold from February 2010 to August 2013

for prices ranging from \$75,000 to \$157,000 or from \$52 to \$113 per square foot of living area, including land, rounded.

The eight additional sales were improved with a two-story and seven, part one-story and part two-story townhomes that were built between 1994 and 1999. The townhomes range in size from 1,524 to 1,655 square feet of living area and feature two-car garages. The comparables sold from February 2011 to September 2013 for prices ranging from \$113,900 to \$140,000 or from \$71 to \$91 per square foot of living area, including land, rounded.

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. 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 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 finds the best evidence of market value to be the purchase of the subject property in January 2013 for a price of \$82,500. 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 146 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 as a foreclosure in "as-is condition" for cash after having been on the market for 146 days. The Property Tax Appeal Board further finds the purchase price of \$82,500 is below the market value reflected by the assessment of \$105,842.

The board of review submitted information on twenty-six comparable sales with varying degrees of similarity to the subject property. The Property Tax Appeal Board gives reduced weight to sales that occurred remote in time to the assessment date of January 1, 2013 such that ten of the eighteen sales occurring between February 2010 and August 2011 for prices ranging from \$104,000 to \$157,000 and three of the eight sales that occurred in February and August 2011 for \$115,000 and \$140,000 would be given little weight. The Board finds these twelve sales would be less likely to be indicative of the subject's estimated market value as of January 1, 2013. Moreover, the Board finds the remaining fourteen sales presented by the board of review do not refute the appellant's evidence that the subject property sold after being exposed on the open market for 146 days in a transaction involving parties that were not related. Based on this record the Board finds the purchase price in January 2013 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.