



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

APPELLANT: Joseph & Mally Miceli
DOCKET NO.: 13-02392.001-R-1
PARCEL NO.: 05-02-475-009

The parties of record before the Property Tax Appeal Board are Joseph & Mally Miceli, 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: \$19,998
IMPR: \$89,991
TOTAL: \$109,989

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 two-story dwelling of frame and brick exterior construction with 4,313 square feet of living area. The dwelling was constructed in approximately 2008. Features of the home include a full basement, central air

conditioning, a fireplace¹ and an attached three-car garage of 737 square feet of building area. The property has a .4-acre site and is located in Elgin, Plato 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 May 17, 2012 for a price of \$330,000. The appellants completed Section IV - Recent Sale Data of the appeal petition disclosing 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 with the Multiple Listing Service for 373 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase price and date; a copy of the Multiple Listing Service data sheet depicting that the property was a short sale with cash financing; and a copy of the Listing & Property History Report depicting a listing date of March 3, 2011 with an asking price of \$499,000 followed by 14 price reductions to a final asking price of \$330,000. The listing data sheet stated, in pertinent part, the home was sold as-is and the "home needs new carpeting/padding throughout, painting and deep cleaning" along with some repairs. 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 \$169,750. The subject's assessment reflects a market value of \$509,607 or \$118.16 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 response to the appeal and in support of its contention of the correct assessment, the board of review submitted a memorandum from the Plato Township Assessor along with supporting documents. In the memorandum, it was asserted that the appellants provided no other supporting evidence on how the sale price was determined and questioning whether the seller was under duress to sell the property.

¹ The appellants reported one fireplace and the assessing officials reported two fireplaces. No property record card was provided to support the assessing officials' contention. The Board finds this amenity dispute is not determinative of the correct assessment of the subject property.

The assessor also submitted a multi-page grid analysis with information on six comparable sales. The comparables were in the subject's immediate area and consist of two-story dwellings that range in size from 3,548 to 4,055 square feet of living area. The comparables sold from November 2010 to November 2012 for prices ranging from \$450,000 to \$614,276 or from \$124.90 to \$173.13 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.

Conclusion of Law

The appellants contend 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 appellants 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).

The Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in May 2012 for a price of \$330,000. 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 there was no evidence of duress to buy or sell. In further support of the transaction the appellants submitted a copy of the Settlement Statement, a copy of the MLS listing sheet for the subject property which depicted that the property had been advertised on the open market for 373 days with numerous reductions in the asking price along with a copy of the Listing & Property History Report. The Property Tax Appeal Board further finds the purchase price of \$330,000 is less than the subject's estimated market value as reflected by its assessment of \$509,607.

The board of review submitted information on six comparable sales of dwellings with varying degrees of similarity to the subject property. The Board gives little weight to comparables #3 through #6 which sold in 2010 and 2011, dates more remote in time from the assessment date and less likely to be indicative of the subject's estimated market value as of the assessment date. More importantly, the Property Tax Appeal Board finds the sales presented by the board of review do not refute the appellants' evidence that the subject property sold after being exposed on the open market for 373 days in a transaction involving parties that were not related. Based on this record the Board finds the purchase price in May 2012 is the best indication of market value as of January 1, 2013, and a 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

Mario Alvino

Member

Member

JR

Member

Acting Member

Robert Hoffmann

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: February 19, 2016

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.