



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

APPELLANT: James Berry & Randall Kula
DOCKET NO.: 13-02413.001-R-1
PARCEL NO.: 09-10-356-014

The parties of record before the Property Tax Appeal Board are James Berry & Randall Kula, 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: \$19,087
IMPR.: \$15,889
TOTAL: \$34,976

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 one-story dwelling of frame construction with 1,036 square feet of living area. The dwelling was constructed in 1955. Features of the home include

a partial unfinished basement and a 308 square foot garage. The property has an 18,000 square foot site and is located in St. Charles, St. Charles 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 December 28, 2012 for a price of \$80,000. 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 8 days.

In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase price and date. The appellants also submitted a copy of the Multiple Listing Service data sheet depicting that the property was a short sale and was available with conventional financing. To additionally support the advertising of the property, the appellants submitted a copy of the Listing & Property History Report depicting a listing of the property from May 2011 to December 2011 with an asking price of \$138,500 and a second listing on September 7, 2012 with an asking price of \$92,000 before being sold.

Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect a purchase price of \$80,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$41,436. The subject's assessment reflects a market value of \$124,395 or \$120.07 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 letter along with supporting documentation from Diane Hemmingsen, Chief Residential Deputy Assessor with the St. Charles Township Assessor's Office. In the memorandum, Hemmingsen stated in pertinent part:

Subject's 12/12 sale is a short sale. This sale is an outlier when compared to similar home sales.

The deputy assessor also submitted a chart with information on six comparable sales one of which was located in the subject's subdivision. The comparables are similar in style and exterior construction. The dwellings were built between 1935 and 1970 and range in size from 720 to 1,014 square feet of living area. Two of the comparables have full and partial basements, one of which has finished area. Three of the homes have central air conditioning and five have a garage ranging in size from 336 to 612 square feet of building area. The comparables sold from August 2011 to August 2012 for prices ranging from \$108,700 to \$155,000 or from \$113.23 to \$152.86 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.

The parties submitted a total of seven sales to support their respective positions before the Property Tax Appeal Board, including the sale of the subject property. The appellants contended that the sale of the subject reflects market value as the sale has the elements of an arm's length transaction as it was sold between unrelated parties, was advertised and exposed on the open market. Moreover, there was no evidence that the transaction was not made between a willing seller and a willing buyer. The sale occurred in December 2012, a short time prior to the January 1, 2013 assessment date at issue. The Property Tax Appeal Board finds, however, that the subject property was on the market for a short period of time of only 8 days and the sale of the subject may not appear to mimic market conditions due to its lower overall sale price in comparison to the typical arm's-length sales of similar properties that were submitted by the board of review, but was still given some consideration. As a consequence, the Board will analyze the sale of the subject along with other comparable sales evidence presented in the record by the board of review.

The Property Tax Appeal Board has given reduced weight to board of review comparables #1, #2, #4 and #5 as these properties have slab or crawl-space foundations as compared to the subject property with a partial basement.

The Board finds the best evidence of market value in the record to be consideration of the sale of the subject property in December 2012 along with consideration of board of review comparable sales #3 and #6. These two board of review comparables have varying degrees of similarity to the subject as one-story frame dwellings with a partial basement and a garage. Each comparable differs from the subject in age and each comparable has central air conditioning which is not a feature of the subject. These two comparables sold in December 2011 and May 2012 for prices of \$108,700 and \$120,000 or for \$113.23 and \$124.48 per square foot of living area, including land. The subject property sold in December 2012 for \$80,000 or for \$77.22 per square foot of living area, including land.

The subject property's assessment reflects a market value of \$124,395 or \$120.07 per square foot of living area, including land, which appears to be slightly excessive in light of the subject's lower sale price in December 2012, lack of air conditioning and similar comparable sales that occurred in both December 2011 and May 2012. Based on the foregoing analysis of the sales evidence in the record, the Board finds that a reduction in the assessment of the subject property is warranted.

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



Member



Member



Acting Member



Member

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



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.