



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

APPELLANT: James Berry & Randall Kula
DOCKET NO.: 13-02415.001-R-1
PARCEL NO.: 09-10-127-003

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 no change 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: \$19,693
IMPR.: \$8,027
TOTAL: \$27,720

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 one-story dwelling of frame construction with 904 square feet of living area. The dwelling was constructed in 1950. Features of the home include a full unfinished basement. The property has a 10,000 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 \$30,000. 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 147 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 an REO/Lender Owned, Pre-Foreclosure and was available for cash 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 on July 13, 2012 with an asking price of \$54,400, followed by seven asking price reductions to a final asking price of \$34,900 before being sold.

Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect a purchase price of \$30,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$27,720. The subject's assessment reflects a market value of \$83,218 or \$92.06 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 12/2012 sale, a Special Warranty Deed purchase from Fannie Mae after a foreclosure is not an arms-length transaction. [Emphasis in original.]

The deputy assessor also submitted a chart with information on four comparable sales three of which are located in the subject's subdivision. The comparables are similar in style and

exterior construction. The dwellings were built between 1925 and 1955 and range in size from 720 to 1,388 square feet of living area. Two of the comparables have full or partial unfinished basements. Three of the homes have central air conditioning and one has a garage of 832 square feet of building area. The comparables sold from May 2010 to November 2012 for prices ranging from \$110,000 to \$132,500 or from \$100.86 to \$152.78 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted a total of five 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 before the January 1, 2013 assessment date at issue. The Property Tax Appeal Board further finds the subject property was on the market for 147 days, however, the Board also finds that the sale of the subject does 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. 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 #2 and #3 as these properties have crawl-

space or slab foundations as compared to the subject property with a full unfinished basement foundation.

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 #1 and #4. These two board of review comparables have varying degrees of similarity to the subject as one-story frame dwellings with a full or partial unfinished basement foundations. Neither of these properties have a garage, but each comparable has central air conditioning which is not a feature of the subject dwelling. These comparables are both older than the subject in age. These two comparables sold in May 2010 and August 2012 for prices of \$110,000 and \$132,500 or \$128.39 and \$143.23 per square foot of living area, including land. The subject property sold in December 2012 for \$30,000 or for \$33.19 per square foot of living area, including land.

The subject property's assessment reflects a market value of \$83,218 or \$92.06 per square foot of living area, including land, which is lower than the most similar comparable sales that occurred in May 2010 and August 2012 given that the subject lacks central air conditioning which is present in both of the most similar comparables. 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 not 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

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.