



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

APPELLANT: 212 Healy St Properties LLC
DOCKET NO.: 13-02432.001-C-1
PARCEL NO.: 06-13-455-013

The parties of record before the Property Tax Appeal Board are 212 Healy St Properties LLC, the appellant, 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: \$10,689
IMPR.: \$42,607
TOTAL: \$53,296

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, five-unit apartment building of brick exterior construction with 2,760 square feet of building area. The building was constructed in 1960. Features include a full finished basement and a 1,000 square foot carport. The property has an 8,712 square foot site and 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 of both the recent purchase of the subject property and data on three comparable sales.

As to the sale of the subject, the appellant completed Section IV - Recent Sale Data disclosing the subject property was purchased on May 30, 2012 for a price of \$160,000. The appellant also reported the transfer was not between family or related corporations, the property was sold by a Realtor and the property had been advertised for sale in the Multiple Listing Service for a period of 72 days. The appellant also submitted a copy of the Multiple Listing Service data sheet depicting that the original listing price was \$189,900 and the financing was "cash."

As to the comparable sales, the appellant reported that sales #1 and #2 were located within 9 blocks of the subject; no data was provided concerning the proximity of comparable #3 to the subject. The comparable dwellings are two story frame structures that are each more than 100 years old. The buildings contain 5-units and range in size from 2,336 to 3,588 square feet of building area. The comparables sold between July 2011 and June 2012 for prices ranging from \$80,000 to \$185,000.

Based on this evidence, the appellant requested a reduction in the subject's assessment which would reflect a market value of approximately \$130,500.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$71,660. The subject's assessment reflects a market value of \$215,131 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 information prepared by the Elgin Township Assessor. The assessor asserted that each of the subject's apartments were one-bedroom units. The assessor further reported that the subject was purchased in May 2012 as a short sale for \$160,000. The property was first listed from July 2011 to December 2011 with an asking price of \$224,900 which was reduced to \$199,000. The next listing commenced in January 2012 with an asking price of \$189,900 before being sold. The listings reported the property is in "great condition."

The assessor contended that the three sales presented by the appellant were former single family dwellings that were converted into multi-unit apartment buildings. The subject building is much newer than these comparables and was built as a five-unit apartment building. The assessor stated, "Sales of converted buildings are not reliable."

In support of the subject's assessment, the board of review submitted an income approach to value and six suggested comparable sales as prepared by the Elgin Township Assessor's Office.

The multi-family comparables had varying degrees of similarity in number of bedrooms per unit when compared to the subject.

Comparables #1 through #5 were five-unit and six-unit apartment buildings; comparable #6 was a 12-unit building. The buildings ranged in age from 27 to 50 years old as compared to the subject that was 53 years old. The comparables sold from February 2011 to August 2013 for prices ranging from \$360,000 to \$835,000 or from \$60,000 to \$87,000 per rental unit, including land.

Because the subject is a rental dwelling, the assessor developed the income approach to value. The assessor estimated the subject property would have a gross annual income of \$40,500 and applied a vacancy and collection loss of 10% or \$4,050 resulting in an effective gross income of \$36,450. The assessor estimated expenses at 25% of effective gross income or \$9,112 resulting in estimated net operating income of \$27,338. The assessor applied a loaded capitalization rate of 10.91% to the net operating income resulting in a market value of \$250,577 or \$50,115 per rental unit under the income approach to value.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant argued that the sale history of the subject building was "very telling" as the subject did not sell with the first listing, the price was reduced and then the property was re-listed for a further reduced price before selling for \$160,000. As to the comparable sales presented by the board of review, the appellant noted the properties did not consist of solely one-bedroom units.

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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

First, the Board gave little weight to the estimate of value under the income approach prepared by the assessor on behalf of the board of review. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is other credible market value data available.

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 Board finds the best evidence of market value to be the purchase of the subject property in May 2012 for a price of \$160,000. 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 72 days. In further support of the transaction the appellant submitted a copy of the MLS listing sheet for the subject property. Additionally, the board of review reported the subject's sale as a short sale for cash after having been on the market originally with an asking price of \$224,900. The Property Tax Appeal Board further finds the purchase price of \$160,000 is less than the subject's estimated market value as reflected by its assessment of \$215,131.

The board of review also submitted information on six comparable sales with varying degrees of similarity to the subject property. The Property Tax Appeal Board finds the comparable sales evidence does not overcome the subject's arm's-length sale price as determined by the aforementioned controlling Illinois case law. Additionally, comparable #6 with 12-units is dissimilar to the subject 5-unit building. Furthermore, comparables #1 through #3 sold in 2011, which is dated and a less reliable indicator of market value as of the subject's January 1, 2013 assessment date. Comparables #4 and #5 which sold more proximate to the assessment date consist primarily of two-bedroom apartment units as compared to the subject's one-bedroom apartment unit design. In conclusion, the Property Tax Appeal Board finds the comparable sales do not refute the appellant's evidence that the subject property sold after being exposed on the open market for 72 days in a transaction involving parties that were not related. Based on this record the Board finds the purchase price from May 2012 is the best indication of market value as of January 1, 2013, and a reduction in the subject's assessment 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



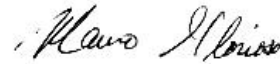
Member



Member



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: March 18, 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.