



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

APPELLANT: DTG & Dady Investments
DOCKET NO.: 13-02556.001-R-1
PARCEL NO.: 14-09-400-005

The parties of record before the Property Tax Appeal Board are DTG & Dady Investments, 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 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: \$20,757
IMPR.: \$29,531
TOTAL: \$50,288

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 1,444 square feet of living area. The dwelling was constructed in 1956. Features of the home include a 1,316 square foot unfinished basement, central air conditioning and a 408 square foot garage. The property has a .82-acre site backing to an adjacent forest preserve. The

subject is located in Sugar Grove, Sugar Grove Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted limited information on six comparable sales. The comparables are located from 2 to 4 miles from the subject property and consist of one-story frame or brick dwellings. Four of the homes range in size from 1,218 to 1,339 square feet of living area; no dwelling sizes were reported for comparables #1 and #5. Four of the comparables have full basements with finished area. Five of the comparables have central air conditioning, two comparables have a fireplace and each property has a two-car garage. The comparables sold between July 2012 and May 2013 for prices ranging from \$82,000 to \$131,500.

Based on this evidence, the appellant requested a total assessment of \$37,913 which would reflect a market value of approximately \$113,750.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$50,288. The subject's assessment reflects a market value of \$150,970 or \$104.55 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 memorandum and documentation prepared by the Sugar Grove Township Assessor's Office. As to the appellant's comparables, the assessor contended that parcels were smaller than the subject and/or located distant from the subject. The assessor also contended that short sale and/or bank owned properties "cannot be used" and are considered duress sales.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on three comparable sales. The comparables consist of one-story frame or brick dwellings that were built between 1947 and 1973. The comparables range in size from 920 to 2,363 square feet of living area. Two of the comparables have full basements and a fireplace. No information was provided regarding proximity to the subject and/or air conditioning for any of the properties. Each comparable has a two-car or a three-car garage ranging in size from 500 to 723 square feet of building area. The properties sold between April 2010 and August 2011 for prices

ranging from \$170,000 to \$215,000 or from \$90.99 to \$184.78 per square foot of living area, including land.

The board of review also submitted an analysis of four equity comparables which will not be further discussed in this decision. The Property Tax Appeal Board finds that equity data is not responsive to the appellant's overvaluation argument and is therefore not relevant in this appeal.

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

In written rebuttal, counsel for the appellant noted that proximity of the board of review's comparables to the subject property was not disclosed in the submission. Counsel also submitted copies of the "Redfin listings" for each of the board of review's suggested comparables. No further argument or explanation regarding the listings was presented as part of the rebuttal.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

As to the board of review's contention that short sale and/or bank owned property "cannot be used as evidence," the Property Tax Appeal Board finds that this statement is untrue and a misstatement of provisions of the applicable Property Tax Code. As to the board of review, Section 16-55 provides that the board shall include compulsory sales in reviewing and correcting assessments, including, but not limited to, those compulsory sales submitted by the taxpayer, if the board determines that those sales reflect the same property characteristics and condition as those originally used to make the assessment. (35 ILCS 200/16-55) Furthermore, the Property Tax Appeal Board takes judicial notice of Section 1-23 of the Code which defines compulsory sale as:

"Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete. 35 ILCS 200/1-23.

Furthermore, Section 16-183 of the Code provides that the Property Tax Appeal Board is to consider compulsory sales in determining the correct assessment of a property under appeal stating:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. 35 ILCS 200/16-183.

Thus, based on these statutes, the Property Tax Appeal Board finds it is appropriate to consider both short sale and bank owned properties as comparable properties.

The parties submitted a total of nine comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparables #1 and #2 as these dwellings lack a basement which is a feature of the subject property. The Board has also given reduced weight to board of review comparables #1 and #3 as comparable #1 is much smaller than the subject dwelling, lacks a basement and sold in 2010 and comparable #3 is much larger than the subject dwelling. The Board has also given reduced weight to board of review comparable #2 which has several similarities to the subject property, but the Board finds that the property sold in September 2010, a date remote in time to the valuation date at issue of January 1, 2013 and thus is less likely to be indicative of the subject's estimated market value as of the assessment date.

The Board finds the best evidence of market value to be appellant's comparable sales #3 through #6. These four most similar comparables sold between July 2012 and May 2013 for prices ranging from \$112,500 to \$131,500 or from \$84.02 to \$105.45 per square foot of living area, including land. The

subject's assessment reflects a market value of \$150,970 or \$104.55 per square foot of living area, including land, which is within the range established by the best comparable sales in this record on a per-square-foot basis and appears to be justified given the subject's location adjacent to a forest preserve which was not refuted in rebuttal. Based on this evidence the Board finds a reduction in the subject's assessment is not 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 Alvarez

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.