



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

APPELLANT: David Cellitti
DOCKET NO.: 13-04044.001-R-1
PARCEL NO.: 06-01-123-055

The parties of record before the Property Tax Appeal Board are David Cellitti, the appellant; and the DuPage County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** in the assessment of the property as established by the **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 50,160
IMPR.: \$234,400
TOTAL: \$284,560

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage 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 frame and masonry dwelling that has 3,885 square feet of living area. The dwelling was constructed in 2012. Features include a partial finished basement, two fireplaces, central air conditioning and a two-car attached garage. The subject property has an 8,317 square foot site. The subject property is located in York Township, DuPage County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming assessment inequity and overvaluation as the bases of the appeal. The appellant did not challenge the subject's land assessment. In support of these claims, the appellant submitted five comparable properties located from .04 to 1.2 miles from the subject. The comparables are improved with two-story frame and masonry dwellings that were built from 2004 to 2006. The dwellings contain from 3,507 to 4,112 square feet of living area and area situated on sites that contain from 7,173 to 9,500 square feet of land area. Features had varying degrees of similarity when

compared to the subject. The comparables have improvement assessments ranging from \$157,360 to \$201,950 or from \$43.59 to \$50.82 per square foot of living area. The comparables sold from March 2010 to July 2012 for prices ranging from \$740,000 to \$900,000 or from \$207.76 to \$226.47 per square foot of living area including land. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$284,560. The subject's assessment reflects an estimated market value of \$854,022 or \$219.83 per square foot of living area including land when applying the 2013 three-year average median level of assessment for DuPage County of 33.32%. The subject property has an improvement assessment of \$234,400 or \$60.34 per square foot of living area.

In support of the subject's assessment, the board of review submitted a letter addressing the appeal, a memorandum from the Deputy Assessor from the York Township Assessor's Office and five comparable properties. One comparable was also used by the appellant. The assessor pointed out the subject property was purchased in September 2012 for \$909,819 or \$234.19 per square foot of living area including land.

The comparables submitted on behalf of the board of review are located in the subject's assigned neighborhood code as defined by the assessor. The comparables are improved with two-story frame and masonry dwellings that were built from 2005 to 2013. The dwellings contain from 3,444 to 3,771 square feet of living area. Features had varying degrees of similarity when compared to the subject. The comparables had improvement assessments ranging from \$140,450 to \$226,970 or from \$40.07 to \$60.19 per square foot of living area. The comparables sold from June 2012 to May 2013 for prices ranging from \$740,000 to \$900,000 or from \$211.01 to \$256.78 per square foot of living area including land. Based this evidence, the board of review requested confirmation of the subject's assessment.

Under rebuttal, the appellant argued the subject's per square foot improvement assessment is higher than the comparables submitted by both parties.

Conclusion of Law

The appellant argued overvaluation as one of the basis of the appeal. 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 no reduction in the subject's assessment is warranted.

The parties submitted a total of nine comparable sales for the Board's consideration. The evidence further disclosed the subject property was purchased in September 2012 for \$909,819 or \$234.19 per square foot of living area including land, just three months prior to the January 1, 2013 assessment date. There was no evidence in the record to suggest the subject's sale was not an arm's-length transaction. The Illinois Supreme Court has defined fair cash value as 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 of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Based on this record, the Board the best evidence of the subject's market value is its September 2012 sale price of \$909,819, which is less than its estimated market value as reflected by its assessment of \$854,022. This evidence suggests the subject property is under-assessed for taxation purposes.

The taxpayers argued assessment inequity as an alternative basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant failed to meet this burden of proof.

The parties submitted nine assessment comparables for the Board's consideration. They have improvement assessments ranging from \$140,450 to \$226,970 or from \$40.07 to \$60.19 per square foot of living area. The subject property has an improvement assessment of \$234,400 or \$60.33 per square foot of living area, which falls above the range established by the most similar comparables contained in the record. However, the Board finds the subject's slightly higher per square foot improvement assessment is justified. When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The supreme court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

"the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]"

Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test.[citation.]" Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the Illinois Supreme Court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court,

uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21. The Board finds the comparables submitted by both parties sold for prices ranging from \$740,000 to \$900,000 and have improvement assessments ranging from \$40.07 to \$60.19 per square foot of living area. The subject property sold proximate in time of these comparables for \$909,819, which is more than both parties' comparable sales. The subject property has an improvement assessment \$60.33 per square foot of living area, slightly higher than both parties' comparables. The Board finds the subject's slightly higher per square foot improvement assessment is well justified giving consideration to the credible market evidence contained in this record. Therefore, the appellant failed to demonstrate the subject property was inequitably assessed by clear and convincing evidence.

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

DISSENTING: _____

CERTIFICATION

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: June 24, 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.