



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

APPELLANT: Albert & Caryn Collins Jr.
DOCKET NO.: 14-00510.001-R-1
PARCEL NO.: 05-08-353-009

The parties of record before the Property Tax Appeal Board are Albert & Caryn Collins Jr., the appellants, by attorney Kelly A. Helland, of the Law Offices of Daniel J. Kramer, in Yorkville, and the Kendall County Board of Review with Assistant State's Attorney James A. Webb present.

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 **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$10,000
IMPR.: \$76,850
TOTAL: \$86,850

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Kendall County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 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 single-family dwelling of frame and masonry exterior construction with 2,768 square feet of living area. The dwelling was constructed in 2013.¹ Features of the home include a full unfinished walkout basement, central air conditioning, a fireplace and a three-car garage of 949 square feet of building area. The property has a 42,927 square foot site and is located in Yorkville, Kendall Township, Kendall County.

¹ The assessing officials reported the dwelling was built in 2012 as set forth in its memorandum and the property record card. However, the Property Tax Appeal Board finds the best evidence of the date of construction is depicted in the Certificate of Occupancy provided by the appellants. Based on the documentation, the well, septic and final plumbing inspections occurred in 2013 which indicates the dwelling was not completed and habitable in 2012. (35 ILCS 200/9-180)

The appellants appeared at hearing through attorney Daniel J. Kramer on their overvaluation appeal. In support of this argument, the appellants completed Section VI – Recent Construction Information on Your Residence. Documentation submitted by the appellants consisted of four color photographs; a copy of the Certificate of Occupancy issued by the Kendall County Building and Zoning department on July 30, 2013; a copy of the contractor's affidavit executed by Lonny Petrusa; and a copy of a Chicago Title & Trust Company Office Escrow Ledger Card depicting a total construction cost of \$200,000.

As part of the petition, the appellants reported the land was purchased in April 2012 for \$15,500 and the building was constructed for \$200,000 which includes all contractor's fees, architectural or engineering fees, landscaping of the homesite and/or building permits. The appellants also reported that the owner or a member of the owner's family acted as the general contractor at an estimated value of those services of \$10,000. At hearing, Attorney Kramer indicated that Lonny Petrusa, the general contractor, is married to appellant Albert Collins, Jr.'s daughter. Counsel further indicated that Petrusa purchased several parcels in the area and sold the subject parcel to the appellants for about three times' the original purchase price. The appellants further reported that no non-compensated labor was performed. Counsel contended that as depicted in the affidavit, the majority of the costs involved the materials and contractor Petrusa performed slab work, heating and lighting.

Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect a total market value of approximately \$225,500 given the land purchase price plus the cost of construction of the dwelling.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$86,850. The subject's assessment reflects a market value of \$260,420 or \$94.08 per square foot of living area, land included, when using the 2014 three year average median level of assessment for Kendall County of 33.35% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)). At hearing, the board of review's evidence was presented by Andrew Nicoletti, Kendall County's Chief County Assessing Officer and Clerk of the Board of Review.

In support of its contention of the correct assessment the board of review submitted a memorandum outlining its evidence consisting of two cost approach worksheets from, respectively, IRPAM (Illinois Real Property Cost Manual) and from Marshall & Swift along with a grid analysis of three comparable sales of one-story dwellings located within 3 miles of the subject property.

The IRPAM analysis depicts the dwelling having been built in 2012, having an effective age of 1 year old and a C grade building quality applied to 2,768 square feet of living area with the addition of central air conditioning, plumbing and a fireplace along with the addition of a full basement and an open brick porch along with a 949 square foot garage. The document depicts the IRPAM cost estimate for the building alone to be \$285,621.76.

The Marshall & Swift analysis depicts a calculation for a walkout basement, a dwelling with air conditioning, plumbing fixtures, a fireplace and a "raised subfloor." After deducting 2% for

physical and functional depreciation, the depreciated replacement cost new of the building was depicted as \$281,446 under the Marshall & Swift analysis.

The board of review also submitted a grid analysis depicting three improved properties located within three miles of the subject property. The comparable parcels range in size from 51,900 to 61,556 square feet of land area, each of which have been improved with a one-story brick and frame dwelling that was 6 to 18 years old. The dwellings range in size from 2,194 to 2,296 square feet of living area. Each dwelling has a basement, one of which is denoted as a "look-out" basement, central air conditioning and a garage ranging in size from 650 to 888 square feet of building area. Two of the comparables each have a fireplace. The comparables sold between March 2013 and September 2014 for prices ranging from \$270,000 to \$275,000 or from \$118.68 to \$123.06 per square foot of living area, including land.

In opening statement, the board of review asserted, without evidentiary support, that the general contractor who completed the Contractor's Affidavit for the appellants is possibly the 'father-in-law' of the appellants. Therefore, based upon the potential familial relationship and the evidence of comparable sales presented by the board of review, the board of review contends that the subject property has been properly assessed and thus, requested confirmation of the subject's estimated market value as reflected by its assessment.

On cross-examination, counsel established that the three comparable sales presented by the board of review reflected properties in built-out subdivisions with mature landscaping. Additionally, two of the properties were located in a subdivision directly east of an Illinois State Park. As to the subject property, Nicoletti acknowledged that the subject property is located in a subdivision that, at the time, only included two homes with virtually no landscaping, other than what the two homeowners had planted.

At hearing in rebuttal, counsel for the appellants contended that the board of review comparable sales were in 'nice' subdivisions with good curb appeal and mature landscaping. In contrast, counsel asserted that the subject property is located in a "failed subdivision" which only had one dwelling for a lengthy period of time of 2006 to 2014 when the appellants constructed the subject dwelling.

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 in light of the comparable sales evidence in the record.

The appellants presented evidence that the total investment in the subject dwelling and land was \$225,500 or \$81.47 per square foot of living area, including land. The board of review questioned the familial relationship of the contractor to the appellants and counsel for the appellants acknowledged that there was a familial relationship between the contractor and the

appellants. The existence of a familial relationship between the contractor and the appellants calls into question the arm's-length nature of the relationship and whether costs or expenses were discounted due to that relationship. In light of this acknowledged familial relationship, the Property Tax Appeal Board has given reduced weight to the reported total construction costs reported by the appellants as the lack of an arm's length relationship may have impacted the costs charged to the appellants for the contractor's work and thus, the total construction costs may not be truly reflective of market value of the subject property for unrelated parties. The Board finds the weight given to the reported actual cost of construction is further undermined by the cost approach developed by the board of review using recognized cost manuals.

The board of review submitted evidence concerning three comparable sales to support the subject's estimated market value as reflected by its assessment. The three comparable dwellings range in size from 2,194 to 2,296 square feet of living area and sold between March 2013 and September 2014 for prices ranging from \$270,000 to \$275,000 or from \$118.68 to \$123.06 per square foot of living area, including land. None of the board of review comparable dwellings feature a walk-out style basement which is a feature of the subject dwelling. Additionally, the subject dwelling is larger and newer than each of the comparables presented by the board of review. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases.

The subject's assessment reflects a market value of \$260,420 or \$94.08 per square foot of living area, including land, which is less than the comparable sales in the record despite that the subject is newer, larger and has a walkout basement which is not a feature of the comparable properties. The Property Tax Appeal Board further finds the subject's estimated market value based on its' assessment is well-supported by the board of review comparable sales despite the appellants' reported construction and acquisition costs for the land and improvement totaling \$225,500 or \$81.47 per square foot of living area, including land.

In conclusion, the Board finds the appellants did not demonstrate by a preponderance of the evidence that the subject was overvalued and 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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.

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 18, 2019



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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