



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

APPELLANT: Mirza Baig
DOCKET NO.: 14-00948.001-R-1
PARCEL NO.: 09-05-302-006

The parties of record before the Property Tax Appeal Board are Mirza Baig, the appellant, by attorney Laura Godek, of Laura Moore Godek, PC in McHenry, and the Kane County Board of Review.

Based on the facts and exhibits presented in this matter, 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: \$35,996
IMPR.: \$125,162
TOTAL: \$161,158

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 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 two-story dwelling of brick and frame construction with 4,036 square feet of living area. The dwelling was constructed in 2002. Features of the home include a full walkout-style basement with finished area, central air conditioning, three fireplaces and a 735 square foot garage. The property has a 17,642 square foot site and is located in South Elgin, St. Charles Township, Kane County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased from Paul and Janet Chaudury on April 4, 2014 for a price of \$483,525. In Section IV – Recent Sale Data of the appeal

petition, the appellant reported the property was listed for sale with Baird & Warner in the Multiple Listing Service for a period of 186 days. The appellant also reported that the parties to the transaction were not related. In further support, the appellant submitted a copy of the Multiple Listing Service data sheet that depicted the original asking price of \$535,900 before the property was sold; a Listing & Property History Report further reveals the property was first listed in July 2013 with an asking price of \$668,000 which was reduced to \$639,000 in September 2013 after which the property was re-listed in January 2014 with an asking price of \$535,000 before being sold at auction. The data sheet also depicts this was a "short sale" with all offers "submitted with Auction.com." A copy of the Settlement Statement reiterated the date of sale and sale price and depicted that brokers' commissions were provided to two real estate firms. The PTAX-203 Illinois Real Estate Transfer Declaration also re-stated the sale price, date and depicted the property was advertised prior to the short sale.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$211,524. The subject's assessment reflects a market value of \$635,398 or \$157.43 per square foot of living area, land included, when using the 2014 three year average median level of assessment for Kane County of 33.29% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review through the township assessor submitted a memorandum and a grid analysis with information on six sales comparables. In pertinent part, the township assessor reported that the subject dwelling is located in the exclusive Thornwood Reserve Subdivision like each of the comparables. As to the sale of the subject, the township assessor noted the property was sold through an auction and board of review comparable #2 was a short sale. The assessor stated the subject's sale "at \$119.80 per square foot was compulsory, short sale, subject to lender approval, and sold at a much lower value than very similar homes in the subject neighborhood."

The comparables consist of two-story dwellings that were built between 2000 and 2004. The homes range in size from 3,415 to 4,353 square feet of living area. Each comparable has a basement, which is either a lookout style or a walkout-style and five of which have basement finished areas. Each dwelling has central air conditioning, one to three fireplaces and a garage ranging in size from 673 to 927 square feet of building area. The properties sold between October 2012 and July 2014 for prices ranging from \$535,000 to \$749,900 or from \$146.35 to \$177.24 per square foot of living area, including land.

Based on this evidence and the argument that the subject property's sale price was an outlier and "not a true reflection of the market in the subject's neighborhood," the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant noted that the board of review did not call into question whether the subject property was sold between related parties and/or whether the property was exposed on the market. While the subject was a short sale which is defined in the Property Tax Code as a "compulsory sale," the Code also requires the Board to consider

compulsory sales of comparable properties in revising assessments" as set forth in Section 16-183 (35 ILCS 200/16-183). Counsel argued that since the legislature provided for the use of compulsory sales as comparable properties, it follows that a short sale of the subject should likewise be considered in revising the assessment of the property.

As to the sales presented by the board of review, counsel argued that sales #2 and #6 which sold in 2012, were removed in time to the assessment date and should be given less weight. As to comparable #5, the appellant's counsel provided documentation that this property actually sold for \$680,000, not \$749,900 as reported by the board of review.

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

The parties submitted data concerning the sale of the subject property and six comparable sales for the Board's consideration. The Board has given reduced weight to board of review comparable sales #2 and #6 since the sales occurred in October 2012, dates more remote in time to the valuation date at issue of January 1, 2014 and thus less likely to be indicative of the subject's market value. The Board has also given reduced weight to the remaining comparable sales presented by the board of review as the comparables fail to overcome the sale of the subject property that was exposed to the open market for 186 days.

On this record, the Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in April, 2014 for a price of \$483,525. As to the sale of the subject, the appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The buyer and seller appear to be un-related; the subject property was exposed to the open market; and there is no direct evidence the parties to the transaction were under duress or compelled to buy or sell. 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). Moreover, this sale occurred a mere four months after the assessment date at issue of January 1, 2014.

The Board finds the purchase price of \$483,525 is below the market value reflected by the assessment of \$635,398. The Board finds the board of review did not present sufficient evidence to challenge the arm's length nature of the transaction and furthermore finds that the comparable sales submitted by the board of review do not overcome the arm's length sale of the subject property.

Based on this record the Board finds the subject property is overvalued and a reduction in the subject's assessment commensurate with the appellant's request 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

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: July 22, 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.