



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

APPELLANT: Martin Saldana
DOCKET NO.: 14-02329.001-R-1
PARCEL NO.: 06-14-237-004

The parties of record before the Property Tax Appeal Board are Martin Saldana, the appellant,¹ 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: \$6,250
IMPR.: \$2,916
TOTAL: \$9,166

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 part one-story and part two-story dwelling of frame exterior construction with 2,545 square feet of living area. The dwelling was constructed in 1900. Features of the home include a full unfinished basement, a fireplace and a detached garage of 359 square feet of building area. The property has a 5,829 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 disclosing the subject property was purchased on November 1, 2013 for a price of \$27,500. The appellant completed Section IV – Recent Sale Data and reported the property was purchased from the previous owner Maria Cortez, the parties to the transaction were not related and Cortez sold the property on her own by advertising it in an unspecified manner and for an unspecified period of time. In support of these assertions, the appellant

¹ Attorney Jerri K. Bush withdrew her appearance for the appellant by a filing dated March 16, 2016.

provided a copy of the PTAX-203 Illinois Real Estate Transfer Declaration that indicated the property was advertised prior to 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 \$49,653. The subject's assessment reflects a market value of \$149,153 or \$58.61 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 response to the appeal, the board of review submitted a memorandum and data gathered by the Elgin Township Assessor's Office. The assessor contends that the subject property was not listed with the Multiple Listing Service (MLS) for purposes of advertising the sale and "therefore, it seems that this property was not actually advertised on the open market for sale."

The assessor also reported that the subject property was extensively damaged by fire in August 2009. The assessor learned of the fire damage after a sale of the property in January 2012 for \$30,000 which required extensive repairs before the property was suitable for habitation. Various permits were issued in 2012 to allow for repair; as of June 2013 the repairs were completed and the dwelling was being occupied. After prorating the assessment for years 2012 and 2013, in 2014 the property was fully assessed; the assessor contends that the current condition of the dwelling is at least average. Despite the remodeling after the fire, the assessor noted that the subject sold in November 2013 for less than its previous sale price when sold in a damaged condition. The assessor further opined "this sale is not indicative of the true market value of this property since it was not on the open market and it is not possible that this property would be worth less after the fire damage had been repaired and the home was remodeled."

In support of its contention of the correct assessment the board of review through the township assessor submitted information on three comparable sales located within 1.79-miles from the subject property. The comparables consist of two-story frame or brick dwellings that were built between 1892 and 1900. The homes range in size from 1,970 to 2,908 square feet of living area and feature basements. One comparable has two fireplaces and each has a garage ranging in size from 360 to 768 square feet of building area. The parcels contain either 8,712 or 13,647 square feet of land area. The properties sold between February 2013 and September 2013 for prices ranging from \$177,000 to \$182,000 or from \$61 to \$92 per square foot of living area, including land, rounded.

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

In written rebuttal, former counsel for the appellant argued that the provisions of the PTAX-203 call for penalties for falsifying statements including criminal penalties and thus the PTAX-203 which reported that the property was advertised prior to sale should not be ignored. Counsel further noted that the document was prepared by an attorney and the property closed through a title insurance company. In rebuttal, a copy of the Warranty Deed prepared for the sale transaction was submitted. Counsel further argued that the transaction was not between related parties and it was not a forced sale, as such counsel contends that the sale was an arm's length transaction and the assessing officials have not established any evidence disputing the arm's

length nature of the sale. Citing applicable case precedent, counsel argued that there is no evidence that the sale price was not reflective of market value. As to the sales presented by the township assessor, the appellant's former counsel submitted copies of the Redfin listings of the properties which described the homes as being restored, historic and/or Victorian homes with special features.

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 Board finds the best evidence of market value to be the purchase of the subject property in November, 2013 for a price of \$27,500. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold by the owner and asserted that the property had been advertised on the open market although the method or length were not reported. In further support of the transaction the appellant submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration which asserted the property had been advertised. The Board finds the purchase price of \$27,500 is below the market value reflected by the assessment of \$149,153. The Board finds the board of review did not present any substantive evidence to challenge the arm's length nature of the transaction other than to assert the property had not been advertised on the MLS; the assessing officials did not refute the contention that the purchase price was reflective of market value at the time of sale. Furthermore, the Board finds that the comparable properties suggested by the board of review were superior to the subject in quality and features as described in the Redfin listings provided by the appellant in rebuttal. Based on this record the Board finds the subject property is overvalued based on its assessment 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



Acting 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: October 21, 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.