



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

APPELLANT: Donald & Amy Miller
DOCKET NO.: 14-02337.001-R-1
PARCEL NO.: 06-23-182-028

The parties of record before the Property Tax Appeal Board are Donald & Amy Miller, the appellants, 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: \$4,997
IMPR.: \$3,336
TOTAL: \$8,333

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 one-story dwelling of frame construction with 520 square feet of living area. The dwelling was constructed in 1930. Features of the home include a crawl-space foundation and a detached 240 square foot garage. The property has a 4,792 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants completed Section IV – Recent Sale Data of the appeal petition, provided an appraisal of the subject property and submitted information on eight comparable sales.

As to the sale of the subject, the appellants reported the subject property was purchased from H.U.D. on December 21, 2012 for a price of \$21,300. The appellants reported that the parties to the transaction were not related, a realtor was involved in the sale of the property and the property was advertised with the Multiple Listing Service for a period of 64 days prior to the

sale. In further support, the appellants provided a copy of the Settlement Statement reiterating the purchase price and date of sale; the document also depicted the distribution of brokers' fees to two realty firms as part of the settlement. The appellants also provided a copy of the Multiple Listing Service data sheet for the subject which depicted an original asking price of \$22,000 and a marketing time of 15 days. The property was available for cash financing and was an REO/Lender Owned, Pre-Foreclosure.

The appellants also submitted selective pages of an appraisal of the subject property prepared by Cornelia Wismer which was prepared for HUD REO with an estimated market value of \$22,000 as of October 7, 2012. As to the subject dwelling, the appraiser described there was some rotten wood on the exterior, a sloping floor in a center bedroom and no crawl-space access could be found. The appraiser also noted peeling paint and the water meter was missing with threading that was damaged. Utilizing the sales comparison approach, the appraiser opined a market value for the subject of \$22,000. The appellants' submission includes an additional six black and white photocopies of photographs with the title "subject property." Absent date identifications or location identifications, the Board cannot discern much information from these photographs.

The appellants also submitted a grid analysis of eight comparable sales located from .75 of a mile to 1.71-miles from the subject property. The comparables consist of one-story frame dwellings that were 61 to 139 years old. The homes range in size from 360 to 1,394 square feet of living area. Seven of the comparables have basements and two of the comparables have central air conditioning. One comparable has a fireplace and five of the comparables have a garage ranging in size from 160 to 400 square feet of building area. The properties sold between March 2011 and September 2013 for prices ranging from \$20,000 to \$25,200 or from \$18.08 to \$37.76 per square foot of living area, including land.

Based on this evidence, the appellants requested an assessment reflective of a market value of \$25,000 for the subject property.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$13,332. The subject's assessment reflects a market value of \$40,048 or \$77.02 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 prepared by the Elgin Township Assessor's Office. The assessor contends that the sale of the subject property involved a Special Warranty Deed, was a foreclosure and was a cash sale. As to the comparable sales presented by the appellants, the assessor contended that the properties were randomly located and were cash sales where all but one sale were foreclosures. After a one year assessment reduction for condition at the time of sale, the assessor revalued the subject property to be uniform with other homes of similar size and amenities in the neighborhood.

In support of its contention of the correct assessment the board of review through the township assessor purported to submit information on four comparable sales; however, due to the manner in which the photocopy was made the grid analysis only has legible data on three comparable sales. The comparables consist of one-story frame dwellings that were built between 1900 and

1924. The homes range in size from 521 to 596 square feet of living area and feature full basements, one of which has finished area, and garages ranging in size from 308 to 486 square feet of building area. The properties sold between January 2011 and September 2012 for prices ranging from \$60,000 to \$87,000 or from \$107 to \$147 per square foot of living area, including land, rounded.

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

In written rebuttal, the appellants reiterated their assertion that the purchase price of the subject property in December 2012 reflects its fair cash value which was further supported by an appraisal of the property. The appellants further argue that the subject property is inferior to each of the comparable sales presented by the board of review including, that those comparables each have full basements whereas the subject "sits on wood joists that are situated directly on the dirt ground"; the comparables are larger in living area; and the comparables have larger land parcels than the subject. The appellants provided listing sheets for the board of review comparable sales. Furthermore, due to the manner of construction of the subject dwelling, the appellants contend that there is major settling and a drastic sloping in a number of areas of the home. Lastly, to cure the problem of only providing portions of the appraisal of the subject property, in rebuttal the appellants provided a complete copy of the 2012 appraisal of the subject property.

Conclusion of Law

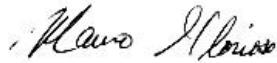
Pursuant to the rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)). In light of these rules, the Property Tax Appeal Board has not considered the entire appraisal report submitted by the appellants in conjunction with their rebuttal argument.

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 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 December, 2012 for a price of \$21,300. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellants completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 64 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase price and date. The Board finds the purchase price of \$21,300 is below the market value reflected by the assessment of \$40,048. The Board finds the board of review did not present any

substantive evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value at the time of the sale given the condition of the property. In fact, the board of review acknowledged condition issues by lowering the assessment for one year. The mere assertion by the board of review that the sale was a foreclosure that sold via Special Warranty Deed for cash alone is not sufficient to overcome the arm's length nature of the sales transaction that occurred between two unrelated parties after the property had been advertised on the open market. The board of review also provided three suggested comparable sales to support the subject's assessment; however, these comparables each have full basements which is a superior attribute when compared to the subject dwelling and two of these sales occurred in 2011, dates more remote in time to the valuation date at issue of January 1, 2014 to be indicative of the subject's estimated market value. In summary, the Property Tax Appeal Board finds that the three sales presented by the board of review occurred remote in time to the assessment date of January 1, 2014 and thus are unlikely to be indicative of the subject's estimated market value. Therefore, based on this record the Board finds the subject property is overvalued and a reduction in the subject's assessment commensurate with the appellants' 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.