



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

APPELLANT: Patrick Koziol & Timothy Ramseyer
DOCKET NO.: 14-02381.001-R-1
PARCEL NO.: 06-13-401-006

The parties of record before the Property Tax Appeal Board are Patrick Koziol & Timothy Ramseyer, the appellants,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: \$7,608
IMPR.: \$5,724
TOTAL: \$13,332

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 part one-story and part 1.5-story multi-family dwelling of frame construction with 1,029 square feet of living area. The dwelling was constructed in 1890 and has two apartment units. Features of the building include a partial unfinished basement and a detached 528 square foot garage. The property has a 5,050 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on September 13, 2013 for a price of \$40,000. The appellants completed Section IV – Recent Sale Data of the appeal petition and reported the property was purchased from HUD (Housing & Urban Development) as a foreclosure, the parties to the transaction were not related, the property was sold by a realtor with Chase Real Estate and was advertised with the Multiple Listing Service for a period of 34 days

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

prior to the sale. In further support of these assertions, the appellants provided a copy of the Settlement Statement that reiterated the purchase price and date; the document also depicted the distribution of brokers' fees to two realty firms. The appellants also submitted a copy of the Multiple Listing Service (MLS) data sheet that depicted the original asking price of \$44,650, that the property was offered for cash financing and was REO/Lender Owned, Pre-Foreclosure. The length of time on the market was further confirmed by a copy of the Listing & Property History Report which depicted the original listing date of June 6, 2013. Based on this evidence, the appellants 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 \$28,394. The subject's assessment reflects a market value of \$85,293 or \$82.89 per square foot of living area or \$42,647 per apartment unit, 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. The assessor noted that the subject's sale was a foreclosure, the property was contracted in 34 days and sold for cash in "as-is" condition.²

In support of its contention of the correct assessment the board of review through the township assessor submitted information on six comparable sales of 2-3 unit buildings and a "Rental Comparable Chart." The comparable sales consist of a 3-unit and five, 2-unit buildings that were built between 1880 and 1959. The buildings range in size from 1,647 to 2,584 square feet of building area. Each comparable has a basement. Five comparables have garages ranging in size from 252 to 480 square feet of building area. The properties sold between June 2013 and April 2014 for prices ranging from \$125,000 to \$137,000 or from \$45,667 to \$66,250 per apartment unit, including land.

Additionally, the assessor estimated a yearly rent for the subject property of \$14,700. "By extracting a GIM from the market data, we have estimated a fair market value of \$88,200 (\$14,700 x 6), \$44,100 per unit."

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

In written rebuttal, former counsel for the appellants reiterated the assertion that the subject's sale was an arm's-length transaction between unrelated parties that had been listed on open market for a period of 34 days. It was further argued that the assessing officials submitted no evidence to dispute the arm's-length nature of the sale transaction nor that the sale price was not reflective of market value at the time of sale. Additionally, the board of review's income approach should be given no weight since the record contains credible market sales data, citing case law to support the contention that little weight should be placed on the cost or income approaches when market data exists. It was further argued that proximity of the comparable sales to the subject property was not reported and thus, the comparable sales should be given reduced weight.

² The assessor did not provide a copy of the MLS data sheet. The MLS sheet provided by the appellants did not indicate the property was sold in "as-is" condition.

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 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 September, 2013 for a price of \$40,000. The appellants provided evidence demonstrating the sale had the elements of an arm's-length transaction. The evidence disclosed 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 34 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement and the MLS data sheet. Additionally, the Listing & Property History Report depicted that the subject property had been on the market as reported.

On this record, the Board finds the purchase price of \$40,000 is below the market value reflected by the assessment of \$85,293. Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill. App. 3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill. 2d 158, 161, 226 N.E.2d 265, 267 (1967). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983); People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970); People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). In light of this holding, the comparable sales submitted by the assessor were given less weight. Moreover, the comparable sales presented by the assessor were each superior to the subject in size and/or number of apartment units. Additionally, many of the comparables are much newer in age than the subject building. Finally, the assessor failed to disclose the comparables' proximate location, which further detracts from the weight of the evidence. Therefore, given the arm's-length nature of the sale transaction, the Board finds that the sale of the subject is the best evidence of its market value in the record.

In conclusion, the Property Tax Appeal 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. 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.