



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

APPELLANT: Steven J. Wiskerchen
DOCKET NO.: 14-02385.001-R-1
PARCEL NO.: 03-23-430-013

The parties of record before the Property Tax Appeal Board are Steven J. Wiskerchen, 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: \$18,176
IMPR.: \$4,544
TOTAL: \$22,720

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 one-story single-family dwelling of frame construction with 1,180 square feet of living area. The dwelling was constructed in 1959. Features of the home include a fireplace and an attached 529 square foot garage. The property has a 17,424 square foot site and is located in East Dundee, Dundee 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 19, 2013 for a price of \$68,250. The appellant completed Section IV – Recent Sale Data of the appeal petition and reported the property was purchased from JP Morgan Chase as a foreclosure, the parties to the transaction were not related, the property was sold through a realtor and was advertised with the Multiple Listing Service for a period of 68 days prior to the sale. In further support of these assertions, the appellant provided a copy of the Settlement Statement that reiterated the purchase

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

price and date; the document also depicted the distribution of brokers' fees to two realty firms. The appellant also submitted a copy of the Multiple Listing Service (MLS) data sheet that depicted the original asking price of \$81,370, that the property was offered for cash financing and was REO/Lender Owned. 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 September 13, 2013. 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 \$28,331. The subject's assessment reflects a market value of \$85,104 or \$72.12 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 Dundee Township Assessor. The assessor noted that the subject's sale was "from a Bank after Foreclosure, a non valid sale." Additionally, the assessor stated that the appellant did not provide any comparable sales or an appraisal. A copy of the PTAX-203 Illinois Real Estate Transfer Declaration was provided that reflected transfer via Special Warranty Deed, the property was advertised and the property was "Bank REO (real estate owned)." The assessor provided no further information as to why a compulsory sale after foreclosure was "not valid."²

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 .52 of a mile of the subject property. The comparable parcels range in size from 8,712 to 14,375 square feet of land area. The parcels are improved with one-story frame or masonry dwellings that were built between 1954 and 1957. The homes range in size from 1,116 to 1,276 square feet of building area. Two of the comparables have basements with finished areas. Each comparable has central air conditioning, two comparables each have a fireplace and the properties have garages ranging in size from 420 to 720 square feet of building area. The properties sold between September 2012 and September 2013 for prices ranging from \$109,900 to \$125,000 or from \$97.96 to \$106.84 per square foot of living area, including land.

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

In written rebuttal, former counsel for the appellant 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 68 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. It was further argued that board of review comparable sale #1

² As of July 16, 2010, the Property Tax Code mandates that the Property Tax Appeal Board shall consider compulsory sales for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. (35 ILCS 200/16-183) The Property Tax Code defines a compulsory sale in part as "the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete." (35 ILCS 200/1-23)

was not a recent sale, having occurred in 2012 whereas the assessment date at issue is January 1, 2014. As to board of review comparables #2 and #3, the appellant's former counsel provided copies of Redfin listings of the properties for consideration by the Property Tax Appeal Board.

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 \$68,250. 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 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 68 days. In further support of the transaction the appellant 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.

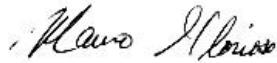
On this record, the Board finds the purchase price of \$68,250 is below the market value reflected by the assessment of \$85,104. Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where 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 by having a basement and/or having central air conditioning. 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

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Board finds the subject property is overvalued and a reduction in the subject's assessment to reflect the purchase price 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.