



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

APPELLANT: RBG Properties LLC
DOCKET NO.: 14-02387.001-R-1
PARCEL NO.: 11-16-200-013

The parties of record before the Property Tax Appeal Board are RBG Properties LLC, 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: \$44,942
IMPR.: \$14,980
TOTAL: \$59,922

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 1.5-story single-family dwelling of frame exterior construction with 2,536 square feet of living area. The dwelling was constructed in 1989. Features of the home include a walkout-style basement, central air conditioning, a fireplace and a 576 square foot garage. The property also has a 16,960 square foot pole building, a 4.01-acre site and is located in Elburn, Blackberry 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 May 7, 2014 for a price of \$180,000. The appellant completed Section IV – Recent Sale Data of the appeal petition and reported the property was purchased from The Bank of New York Mellon as a foreclosure, the parties to the transaction were not related, the property was sold by Re/Max Great American North and was advertised with the Multiple Listing Service for a period of 10 days prior to the

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

sale. In further support of these assertions, the appellant 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 appellant also submitted a copy of the Multiple Listing Service (MLS) data sheet that depicted the original asking price of \$199,900 and the final sale price of \$180,000. The document further depicts the property was offered for cash financing, was sold as-is 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 four other listings of the property that began on January 15, 2014 with an initial asking price of \$274,900 which were reduced to \$259,900, \$244,900 and \$224,900, respectively. A copy of the PTAX-203 Illinois Real Estate Transfer Declaration provided that the property transferred via Special Warranty Deed, was advertised prior to the sale and was a Bank REO (real estate owned) transaction. 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 \$119,264. The subject's assessment reflects a market value of \$358,258 or \$141.27 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 Blackberry Township Assessor, Uwe Rotter. The assessor conceded that the subject property was purchased in May 2014 via a Special Warranty Deed for \$180,000. The assessor acknowledged further that the property was sold as is and had deferred maintenance (see MLS listing). The assessor's office viewed the property in May 2014 and confirmed condition issues of mold and mildew both inside and out, plumbing that had been removed/torn out and noted that required maintenance had not been performed. Finding that the home was not livable, the assessor prorated the assessment as of May 9, 2014, a reduction of \$54,091 in assessed value for 2014. Rotter further stated, "This sale was discounted to compensate for the lack of maintenance and does not reflect the true value of the property."

As part of the memorandum, the assessor further opined that property owners are expected to maintain their property in a good state of repair and are not penalized for performing normal repairs. Similarly, he asserted that a "taxpayer should not be rewarded for not performing normal maintenance by lowering assessments." As part of the submission, the assessor provided a copy of the subject's property record card that indicated the home was "Quality: A" and "Condition: Good," but the assessor's remarks included a February 2014 notation, "per purchasing inquiry: kitchen is gutted other sections are gutted to remove mold." The most recent permit recorded on the property record card was issued in April 2015 for "remodel."

As shown in Attachment C, the appellant subsequently remodeled the subject dwelling with "new: cabinetry, granite, furnace, water heater, tile, refinished hardwood floors" and a new listing price of \$424,900.

In support of its contention of the correct assessment the board of review through the township assessor submitted information in Attachment A on three comparable sales. The parcels range in size from 10,170 to 212,137 square feet of land area which are improved with two-story

dwellings of aluminum, aluminum and wood or brick and stucco exterior construction. The homes were built between 1922 and 2004 and range in size from 1,717 to 1,796 square feet of living area. Each home has a basement, central air conditioning, one or two fireplaces and a garage ranging in size from 484 to 700 square feet of building area. Comparable #1 also has three barns with 6,645 square feet of building area along with a cell tower. The properties sold between August 2013 and December 2013 for prices ranging from \$262,500 to \$345,000 or from \$107.49 to \$149.74 per square foot of living area, including land.

Based on this evidence and argument, the board of review contended that the subject property was properly valued.

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 10 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 reflective of market value at the time of sale.

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.

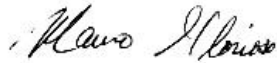
The Board finds the best evidence of market value to be the purchase of the subject property in May, 2014 for a price of \$180,000. The appellant provided evidence demonstrating the sale had the elements of an arm's-length transaction. The appellant completed Section IV - Recent Sale Data of the appeal 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 10 days. In further support of the transaction the appellant submitted a copy of the Settlement Statement and the MLS data sheet which indicated that the subject property was sold as-is. Additionally, the Listing & Property History Report depicted that the subject property had been on the market recently with multiple listings commencing in January 2014.

On this record, the Board finds the purchase price of \$180,000 is below the market value reflected by the assessment of \$358,258. The assessor acknowledged that the subject dwelling was not livable in 2014, having inspected the property and observed mold and mildew along with the lack of plumbing in the dwelling. 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, there is no indication in the record that the comparable sales presented by the assessor were in similar condition to the subject property at the time of their respective sales. Therefore, at a minimum the comparable sales would all be superior to the subject since they did not suffer from mold and/or mildew or lack plumbing as was the condition of the subject in 2014. Moreover, the condition of the subject as of January 1, 2014, the assessment date at issue, was presumably similar to its condition on the date of sale of the property in May 2014. Therefore, given the condition issues and 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.

The subsequent remodeling of the dwelling that occurred does not impact the property's estimated market value as of January 1, 2014. 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 given the condition of the subject property. Based on this record, the Board finds the subject property is overvalued and a reduction in the subject's assessment is warranted to reflect the purchase price.

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.