



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

APPELLANT: John Lamaide
DOCKET NO.: 14-02388.001-R-1
PARCEL NO.: 12-27-153-006

The parties of record before the Property Tax Appeal Board are John Lamaide, the appellant, by Jerri K. Bush, Attorney at Law, in Chicago, and the Kane County Board of Review.

Based on the facts and exhibits presented, 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: \$21,431
IMPR.: \$22,760
TOTAL: \$44,191

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 1.5-story single-family dwelling of frame construction with 2,804 square feet of living area. The dwelling was constructed in 1941. Features of the home include a full basement, central air conditioning, an attached one-car garage and a detached three-car garage. The property has a 20,675 square foot site and is located in Batavia, Batavia Township, Kane County.

The subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 13-02311-001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$43,329 based on the evidence submitted by the parties. For this 2014 assessment appeal, the appellant relied upon evidence that the

subject property was purchased on or about June 21, 2012 for a price of \$130,000 to demonstrate the subject was being overvalued.

The Property Tax Appeal Board takes judicial notice that 2013 and 2014 were within the same general assessment period for residential property in Kane County. (86 Ill.Admin.Code 1910.91(i) & 35 ILCS 200/9-215)

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject property totaling \$75,458 was disclosed. The subject's assessment reflects a market value of \$226,397 when applying the statutory level of assessment of 33.33%.

In response to the appeal, the board of review submitted documentation prepared by the Batavia Township Assessor. In a memorandum, the township assessor asserted that since the 2012 purchase of the subject for \$130,000, the "home has been remodeled." There is no documentation of permits or other evidence to support what remodeling has been performed. The township assessor also asserted that in accordance with Illinois State Statutes "the circumstances of this sale do not meet the requirements defined in an arm's length transaction." Statutes cited by the assessor were Sections 1-50 and 1-55 defining fair cash value and the mandate that properties be assessed at 33 1/3% of fair cash value.¹

In further support of the subject's 2014 assessment, the assessor provided four comparable sales, two of which were located in the subject's neighborhood and two of which were presented for dwelling size, with descriptions to demonstrate the subject's assessment reflected the property's market value.

¹ Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

In written rebuttal, counsel for the appellant reiterated the argument that the subject property was purchased in an arm's length sale transaction and the board of review has not provided any evidence to refute that the sale was not arm's length citing cases set forth in Footnote 1.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. Pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the Board finds the prior year's decision should be carried forward to the subsequent year subject only to equalization.

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

The record disclosed the Property Tax Appeal Board issued a decision reducing the subject's 2013 assessment. The Board further finds evidence within the record indicating that the subject property is an owner occupied dwelling. The Board has taken judicial notice that 2013 and 2014 are within the same general assessment period in Kane County. The record contains no evidence indicating the subject property sold in an arm's length transaction subsequent to the Board's decision or that the assessment year in question is in a different general assessment period. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the Board's prior year's decision plus the application of the Batavia Township 2014 equalization factor of 1.0199.

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

K. L. Fan

Mario Alvarez

Member

Member

JR

Member

Acting Member

Robert Hoffmann

Acting Member

DISSENTING: _____

C E R T I F I C A T I O N

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: February 19, 2016

A. Proctor

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.