



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

APPELLANT: Maria Dolores Hernandez
DOCKET NO.: 14-02393.001-R-1
PARCEL NO.: 15-14-154-003

The parties of record before the Property Tax Appeal Board are Maria Dolores Hernandez, 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: \$3,663
IMPR.: \$9,769
TOTAL: \$13,432

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 720 square feet of living area. The dwelling was constructed in 1956. Features of the home include a full basement and a detached 280 square foot garage. The property has a 6,000 square foot site and is located in Aurora, Aurora 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 June 30, 2014 for a price of \$40,300. The appellant completed Section IV – Recent Sale Data of the appeal petition and reported the property was purchased as a judicial sale, the parties to the transaction were not related and the property was advertised as a judicial sale. In further support of these assertions, the appellant provided a copy of the Order Confirming Sale (Order Approving) And Order of

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

Possession recorded in Case no. 13 CH 01070 in the Circuit Court for the 16th Judicial Circuit, Kane County. The Order reported that notice of the sale had been properly given in accordance with statute and the proceeds of the sale were \$40,300 with a deficiency judgment against the defendant Octaviano Perez in the amount of \$109,308.89 with statutory interest. 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 \$20,398. The subject's assessment reflects a market value of \$61,274 or \$85.10 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 through the Aurora Township Assessor's Office submitted a memorandum and related data. The memorandum noted the June 30, 2014 sale via Sheriff Deed and next reported a quit claim deed was recorded on July 14, 2014 with "mailing address is the same for Grantee As was listed on the Sheriff's Deed." No other documentation or explanation was provided for this assertion and the Board finds that it is not clear what the assessor means by the statement. The assessor did not provide any documentation or other evidence to refute the arm's length nature of the sale transaction.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on three equity comparables which will not be further addressed in this decision as they are not responsive to the overvaluation appeal. The assessor also provided a grid analysis of three comparable sales along with a document entitled "Depreciation Table For the 2014 Assessment Year" with the remark that it was included "to account for Equity Uniformity." The comparable sales consist of one-story frame dwellings there were built between 1936 and 1958. The homes range in size from 884 to 1,096 square feet of living area. Two of the comparables have full basements and one comparable has central air conditioning. Each comparable has a garage ranging in size from 240 to 420 square feet of building area. The properties sold between September 2011 and November 2013 for prices ranging from \$76,000 to \$95,000 or from \$69.34 to \$96.15 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 argued that a sheriff's sale must be published in a local newspaper for at least three consecutive weeks, once a week, with the first notice not more than 45 days prior to the sale and the last notice not less than 7 days before the sale. (See 735 ILCS 5/15-1507). Given these requirements, counsel contends that the subject property was exposed to the open market prior to the sale transaction. Counsel further reiterated the elements of an arm's length transaction and contended that the sale of the subject qualified as such a transaction. As to board of review sale #3, it was noted that the sale from 2011 was not proximate in time to the assessment date at issue of January 1, 2014 and none of the comparable data presented by the board of review includes data of proximity to the subject. Given this lack of data in light of the procedural rules of the Property Tax Appeal Board, counsel contends that little weight should be given to the board of review's evidence.

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 June, 2014 for a price of \$40,300 via judicial sale. 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 by judicial sale, the property had been advertised in accordance with the requirements for a judicial sale. Those requirements were further outlined by the appellant in her rebuttal filing. In further support of the transaction the appellant submitted a copy of the Order Confirming Sale (Order Approving) And Order of Possession recorded in Case no. 13 CH 01070 in the Circuit Court for the 16th Judicial Circuit, Kane County. The Order reported that notice of the sale had been properly given in accordance with statute and the proceeds of the sale were \$40,300 with a deficiency judgment against the defendant Octaviano Perez in the amount of \$109,308.89 with statutory interest.

The Property Tax Appeal Board finds the purchase price of \$40,300 is below the market value reflected by the assessment of \$61,274. Furthermore, 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. Moreover, the sales presented by the board of review do not overcome the appellant's evidence that the sale of the subject qualified as an arm's-length transaction. Board of review sale #3 sold in 2011, which is too remote in time to be indicative of the subject's estimated market value; board of review sale #1 did not have a basement and was therefore dissimilar to the subject; and board of review comparable #2 was substantially larger than the subject dwelling. Based on this record, the Board finds the subject property was overvalued and a reduction in the subject's assessment commensurate with the appellant's 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.