



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

APPELLANT: Michael & Betty Dimonte
DOCKET NO.: 14-02403.001-R-1
PARCEL NO.: 15-11-254-005

The parties of record before the Property Tax Appeal Board are Michael & Betty Dimonte, 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: \$10,465
IMPR.: \$38,863
TOTAL: \$49,328

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 multi-level single-family dwelling of frame and masonry exterior construction with 2,300 square feet of living area. The dwelling was constructed in 1969. Features of the home include a partial basement, central air conditioning, a fireplace and a 575 square foot garage. The property has a 12,632 square foot site and is located in Aurora, Aurora 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 June 26, 2014 for a price of \$148,000. The appellants disclosed the subject property was purchased from Lawrence and Tena Fleming out of foreclosure and the parties were not related. The appellants also indicated the

¹ Attorney Jerri K. Bush withdrew her appearance as counsel for the appellants by a filing dated March 6, 2016 and provided contact information for the appellants at an address that differs from that of the subject property of this appeal.

property was sold through a Realtor, the property was listed in the Multiple Listing Service (MLS) and the property had been advertised for sale for 285 days. To document the sale the appellants submitted a copy of the Settlement Statement (HUD-1) which depicted the payment of brokers' fees to two entities, a copy of the MLS listing of the subject property which described the property as being available for cash financing, short sale, sold as-is, and a copy of the Listing & Property History Report depicting the original listing date of June 14, 2013 with an asking price of \$175,000.

Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the June 2014 purchase price of \$148,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$57,494. The subject's assessment reflects a market value of \$172,707 or \$75.09 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 and in support of its contention of the correct assessment, the board of review submitted information gathered by the township assessor on three equity comparables and on one comparable sale. As the equity data is not responsive to the appellants' overvaluation argument, the equity evidence will not be further addressed in this decision.

The township assessor provided one comparable sale of a multi-level dwelling that was built in 1979. The home contains 2,440 square feet of living area and features a crawl-space foundation and one fireplace along with a 573 square foot garage. This comparable sold in May 2013 for \$199,900 or for \$81.93 per square foot of living area, including land. Also attached to the board of review's submission was a copy of the PTAX-203 Illinois Real Estate Transfer Declaration concerning the sale of the subject in June 2014 which indicated that it sold for \$148,000, was advertised for sale and was a short sale.

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

In written rebuttal, former counsel for the appellants reiterated that the appeal was based upon the arm's length sale of the subject property that occurred in June 2014 between unrelated parties after the property had been on the market for 285 days. Noting that the board of review did not provide evidence disputing the arm's length sale and citing case law, counsel contends the subject's sale is the best indication of value of the subject property as of the assessment date of January 1, 2014.

Additionally, it was argued that the board of review did not provide proximity information as to its suggested comparable sale.

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 June, 2014 for a price of \$148,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellants 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 285 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement and the MLS listing sheet.

The Property Tax Appeal Board finds the purchase price of \$148,000 is below the market value reflected by the assessment of \$172,707. The Board further finds the board of review did not present any 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 board of review submitted a copy of the transfer declaration which reiterated the facts asserted by the appellants regarding the sale price, date and that it was a short sale. Section 1-23 of the Property Tax Code (hereinafter Code) defines compulsory sale as:

"Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly **referred to as a "short sale"** and (ii) 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. [Emphasis added.] 35 ILCS 200/1-23.

Section 16-183 of the Code provides that the Property Tax Appeal Board is to consider compulsory sales in determining the correct assessment of a property under appeal stating:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. 35 ILCS 200/16-183.

Based on these statutes, the Property Tax Appeal Board finds it is appropriate to consider the sale of the subject property in revising and correcting the subject's assessment. Moreover, the Board finds that one comparable sale in May 2013 of a newer dwelling than the subject fails to establish that the sale of the subject property was not reflective of the property's 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: January 27, 2017



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.