



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

APPELLANT: Joseph & Leata Lawniczak
DOCKET NO.: 14-03905.001-R-1
PARCEL NO.: 06-12-360-004

The parties of record before the Property Tax Appeal Board are Joseph & Leata Lawniczak, the appellants, by Jessica Hill-Magiera, Attorney at Law, in Lake Zurich, 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: \$8,755
IMPR.: \$20,107
TOTAL: \$28,862

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a 2013 Final Administrative Decision of the Property Tax Appeal Board pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) in order to challenge 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 part one-story and part two-story dwelling of frame construction with 1,822 square feet of living area. The dwelling was constructed in 1875. Features of the home include a partial basement, a fireplace and an attached 420 square foot garage. The property has a 7,875 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence concerning a 2012 purchase price of the subject property along with submission of information on eight comparable sales.

As to the purchase of the subject, the appellants partially completed Section IV – Recent Sale Data disclosing the subject property was purchased on August 10, 2012 for a price of \$53,000.

The appellants further reported the parties to the transaction were not related, the property was sold using a Realtor and the property had been advertised on the open market with the Multiple Listing Service. In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase price and date which also depicted the distribution of brokers' fees to two entities; a copy of the Multiple Listing Service data sheet depicting that the property was an REO/Lender Owned, Pre-Foreclosure with cash financing that was on the market for 23 days; and a copy of the Listing & Property History Report depicting a listing date of June 20, 2012 with an asking price of \$48,150 before being sold for a higher price of \$53,000. There was no information provided in response to the Section IV question, "If renovated, amount spent before occupying" which sought a dollar amount and date of occupancy.

As to the comparable sales data, the appellants' grid analysis depicts data on the proximity, design, year of construction, dwelling size, basement size and type, fireplace amenity and garage size along with sale date, sales price and price per square foot of living area of the properties. The comparables consist of part one-story and part two-story dwellings, three of which are located in the same subdivision as the subject property and were located from .11 to .93 of a mile from the subject property. The homes were built between 1875 and 1900 and range in size from 1,506 to 1,939 square feet of living area. Each comparable has a full or partial basement and seven of comparables have garages ranging in size from 324 to 450 square feet of building area. The properties sold between April 2013 and August 2014 for prices ranging from \$30,700 to \$66,000 or from \$18.97 to \$37.20 per square foot of living area, including land. The analysis included a section entitled Property Equalization Values which appears to depict adjustments to the comparable properties for sale date, land, age, size, basement area, baths, fireplace and/or garage. The bottom of the analysis depicted a reduction in the subject's assessment of \$19,902 to arrive at a market value of approximately \$51,932. At the end of the analysis, data sources were listed as Assessor, County, MLS, Realist and Marshall & Swift. No evidence or explanation pertaining to the calculation of the adjustment amounts was submitted.

Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect a market value less than the 2012 purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$37,211. The subject's assessment reflects a market value of \$111,778 or \$61.35 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 support of its contention of the correct assessment the board of review through the township assessor submitted a memorandum along with information on four comparable sales. In the memorandum, the assessor acknowledged the subject's sale from 2012 for \$53,000 as a Bank REO/cash transaction. As to the eight comparable sales presented by the appellants, the assessor contends that each was a Bank REO, Foreclosure, Short Sale or was not listed on the MLS. The assessor further reported that appellant's comparable #1 resold in April 2015 for \$122,000 and comparable #8 resold in March 2015 for \$144,900.

As to the subject dwelling, the assessor contends the property is being occupied and the tax bill is sent to a different address than the subject; there is no homestead exemption for the subject

which indicates the home is a rental. The assessor further opines that since the subject was sold needing improvement, but is now occupied, the assessor presumes that improvements have been made to the property in order to bring it to rentable status. In light of the subsequent rental, the assessor contended that the subject property was no longer in the same condition as it was at the time of sale.

In further support of the assessment, the assessor provided data on four comparable sales located from .36 to .69 of a mile from the subject property and consisting of a part one-story and part two-story dwelling and three, two-story dwellings of frame exterior construction that were built in 1898 or 1900. The homes range in size from 1,640 to 2,038 square feet of living area and feature basements. One comparable has a fireplace. Each comparable has a garage ranging in size from 280 to 495 square feet of building area. The comparables sold from January 2013 to August 2014 for prices ranging from \$97,000 to \$129,900 or from \$58.64 to \$66.07 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, counsel for the appellants argued that even if the appellants' comparable sales are compulsory sales, in accordance with the Property Tax Code (35 ILCS 200/16-183), the Board shall consider compulsory sales. To the extent that those comparables later resold, counsel argued the sales took place well over a year beyond the assessment date at issue of January 1, 2014 which makes those resales remote in time.

As to the comparable sales presented by the assessor, counsel argued that each comparable is dissimilar to the subject as each is a two-story designed dwelling.¹

Counsel further contended that appellants' comparables #2, #4, #5, #6 and #7 were the "best" comparables in the record and based on this data, a reduction in the subject's assessment is warranted. Counsel also argued that an analysis of raw sales prices per square foot "does not take into account the fundamental concept of using a median sale price/SF to determine market value." Appellant further argued that using a median sale price per square foot "is more accurate and should be standard practice for determining fair market value."

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.

As an initial matter, the Property Tax Appeal Board gave no weight to the appellants' argument that the Board should adopt a standard practice of using the median sale price per square foot of

¹ This assertion is erroneous with regard to board of review comparable #4.

living area, including land, of those comparables deemed best in determining fair market value because it is "more accurate." Contrary to this argument, the decision of the Property Tax Appeal Board must be based upon equity and the weight of evidence, not upon a simplistic statistical formula of using the median sale price per square foot of living area, including land, of those comparables determined to be most similar to the subject. (35 ILCS 200/16-185; Chrysler Corp. v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979); Mead v. Board of Review, 143 Ill.App.3d 1088 (2nd Dist. 1986); Ellsworth Grain Co. v. Property Tax Appeal Board, 172 Ill.App.3d 552 (4th Dist. 1988); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989)). Based upon the foregoing legal principles and contrary to the assertion of the appellants' counsel in the rebuttal brief, there is no indication that a "median sale price per square foot" is the fundamental or primary means to determine market value.

As to the market value contention in this matter, the parties submitted the August 2012 sale of the subject property along with 12 suggested comparable sales for consideration by the Property Tax Appeal Board. The Board has given reduced weight to the sale of the subject the property sold in 2012, a date more remote in time and thus less likely to be indicative of the subject's estimated market value as of January 1, 2014. The Property Tax Appeal Board has also given reduced weight to appellants' comparables #2 and #3 along with board of review comparables #1 and #3 as these dwellings differ most greatly from the subject in dwelling size and/or lack of a garage amenity.

As to the contention that the subject property was rehabilitated after the purchase, the appellants' rebuttal did not specifically address this assertion by the board of review. Given this record, the Property Tax Appeal Board finds the best evidence of market value in the record to be appellants' comparable sales #1 and #4 through #8 along with board of review comparable sales #2 and #4. These comparables sold between April 2013 and August 2014 for prices ranging from \$46,100 to \$129,900 or from \$25.75 to \$66.07 per square foot of living area, including land. These sales provided by the parties had varying degrees of similarity to the subject property. The appellants' sales appear to set the low end of the range. In contrast, the sales identified by the township assessor set the upper end of the range. The subject's assessment reflects a market value of \$111,778 or \$61.35 per square foot of living area, including land, which appears to be excessive when giving consideration to the best comparable sales in the record along with subsequent unknown/unspecified changes in the property.

Based on this evidence and analysis, the Board finds a reduction in the subject's assessment is justified.

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.