



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

APPELLANT: Joe & Lisa Spears
DOCKET NO.: 14-03941.001-R-1
PARCEL NO.: 12-02-103-003

The parties of record before the Property Tax Appeal Board are Joe & Lisa Spears, the appellants, by Jerri K. Bush, Attorney at Law, in Chicago, 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: \$20,984
IMPR.: \$27,200
TOTAL: \$48,184

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a 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 one-story dwelling of frame construction with 1,073 square feet of living area. The dwelling was constructed in 1955. Features of the home include a full unfinished basement and central air conditioning. The property has a 6,250 square foot site and is located in Geneva, Geneva 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 February 28, 2013 for a price of \$74,900. The appellants completed Section IV - Recent Sale Data of the appeal petition 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 for 4 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase price and date; 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 sold "as-is" with the notation "seller will not complete repairs nor will they give credits for repairs"; and a copy of the Listing & Property History Report depicting a listing date of December 12, 2012 with an asking price of \$74,900 before being sold.

Based on this evidence, the appellants 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 \$55,159. The subject's assessment reflects a market value of \$165,692 or \$154.42 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 a two-page memorandum from Denise D. LaCure, Geneva Township Assessor, along with supporting documents. In the memorandum, she asserted the subject's sale was not a normal arm's length transaction. In support of this proposition, she set forth the history of foreclosure, a Sheriff's Sale, ownership by the Office of Veteran's Affairs followed by sale to the appellants via Special Warranty Deed. She also referenced websites for the propositions that VA foreclosed homes may be sold at a discount and "below market prices." According to the website Wikihow, the assessor reported that foreclosed VA properties "will usually sell to the public at 30 to 50 percent off their market value." From this website data, the assessor argued that given economic conditions, the VA would have been in the position of having to buy numerous properties due to the nature of the loan guarantees issued by the VA.

Furthermore, the assessor contends that at the time of sale, the subject property was in need of repair based on the listing photographs that were included with the submission. The poor quality black and white photographs appear to depict floor damage in the kitchen, stained carpeting and perhaps mold on a floor area from water damage. The assessor also contends that aerial photographs of the property in both April 2013 and April 2014 depict "numerous changes to the exterior of the property" which were made without permits being issued, except for one city permit issued for a two-car garage that was completed in 2015. The assessor contends that these exterior black and white photographs depict that within two months of purchase, the siding and windows of the subject property had been replaced; additional purported changes include removing the front stoop and replacing it with a "deck" and extension of the driveway further into the back yard. The assessor further asserts the side view of the dwelling depicts a new air conditioning unit. The assessor concluded, "The assumption would have to be that the subject property was also being rehabbed and updated on the interior."

The assessor also submitted a spreadsheet with information on three comparable sales located within three blocks of the subject. The homes consist of one-story aluminum or cedar dwellings that range in size from 1,038 to 1,080 square feet of living area. The dwellings were built in 1952 or 1954 and feature full or partial basement, central air conditioning and one or two-car garages. The comparables sold from April 2013 to January 2015 with a re-sale of comparable #2 after rehabilitation that occurred in April 2015 for prices ranging from \$107,000 to \$209,000 or from \$101.13 to \$197.54 per square foot of living area, including land. The assessor further

reported that comparable #1 had recently been painted and sale #2 was a short sale that needed a "little tender loving care and some updating," but after a complete renovation including new siding, windows, furnace, air conditioning along with a remodeled kitchen and bath, the property re-sold in 2015. The assessor also set forth adjustments for differences when compared to the subject resulting in adjusted sales prices ranging from \$126,500 to \$196,500 or from \$117.89 to \$183.13 per square foot of living area, including land.

Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, appellants' counsel argued that repairs and maintenance shall not increase the value of the property unless square footage is added so long as it does not materially alter the existing character and condition of the structure and so long as the materials used were equivalent in value to those that were replaced citing to Section 10-20 of the Property Tax Code. (35 ILCS 200/10-20)¹ Since the repairs did not materially alter the property, counsel contends that the property was restored from a state of disrepair to a standard state of repair. As to the garage on the subject parcel, the assessor noted it was completed in 2015. As such, appellants contend this new structure should impact the 2015 assessment, not this pending 2014 assessment appeal. Moreover, counsel disputed the assertion that air conditioning was a new feature installed by the appellants after purchase, providing a photograph dated in December 2012 depicting the condenser unit.

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 appellants have relied upon the February 2013 purchase price of the subject property for \$74,900 to challenge the assessment as of January 1, 2014. The assessing officials contend and the appellants in rebuttal acknowledged that repairs and maintenance have been performed on the subject property "to make the property rentable." In this regard, the Board finds that the appellants failed to report in Section IV – Recent Sale Data answers to the following inquiries: "if renovated, amount spent before occupying" and "date occupied." Moreover, while the

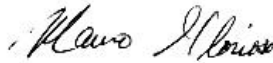
¹ "Repairs and maintenance of residential property. Maintenance and repairs to residential property owned and used exclusively for a residential purpose shall not increase the assessed valuation of the property. For purposes of this Section, work shall be deemed repair and maintenance when it (1) does not increase the square footage of improvements and does not materially alter the existing character and condition of the structure but is limited to work performed to prolong the life of the existing improvements or to keep the existing improvements in a well maintained condition; and (2) employs materials, such as those used for roofing or siding, whose value is not greater than the replacement value of the materials being replaced. Maintenance and repairs, as those terms are used in this Section, to property that enhance the overall exterior and interior appearance and quality of a residence by restoring it from a state of disrepair to a standard state of repair do not "materially alter the existing character and condition" of the residence."

rebuttal acknowledged that repairs had been made to the property, the appellants persisted in failing to report the value of the repairs that had been made to the property.

The Board finds the best evidence of market value in the record to be consideration of the purchase price along with subsequent upgrades to "make the property rentable" along with board of review comparable sales #1 and #2 that occurred in January 2015 and April 2013, respectively. These comparables were similar to the subject in location, style, construction, features, age and land area, although the comparables have a garage amenity which, as of January 1, 2014, was not a feature of the subject property. The sales prices were \$163,203 and \$107,000 or \$151.11 and \$101.13 per square foot of living area, including land. Furthermore, as set forth by the assessor, the adjusted sales prices were \$160,203 and \$126,500 or \$149.30 and \$117.89 per square foot of living area, including land.

The subject's assessment reflects a market value of \$165,692 or \$154.42 per square foot of living area, including land, which is above the best comparable sales in this record both in terms of sale price and the assessor's indicated "adjusted sale price." The Board gave reduced weight to the subject's sale price in February 2013 due to the fact the property has been subsequently altered and/or renovated to "make it rentable" which indicates the property as of the January 2014 assessment date was in improved condition as compared to its sale date condition. After considering the most comparable sales on this record along with adjustments for differences, the Board finds the subject property's assessment to be excessive in relation to its market value and a reduction in the subject's assessment 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



Acting Member

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: _____

April 21, 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.