



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

APPELLANT: Jason Damm
DOCKET NO.: 15-00734.001-R-1
PARCEL NO.: 09-05-379-019

The parties of record before the Property Tax Appeal Board are Jason Damm, the appellant, 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: \$23,998
IMPR.: \$94,885
TOTAL: \$118,883

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 2015 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 two-story dwelling of brick and frame exterior construction with 2,822 square feet of living area. The dwelling was constructed in 2000. Features of the home include a partial basement with finished area, central air conditioning, a fireplace and a 451 square foot garage. The property has a 12,428 square foot site and is located in South Elgin, St. Charles Township, Kane County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence concerning the subject's recent purchase price along with data in the Section V grid analysis with information on three suggested comparable sales.

As to the sale of the subject, the appellant completed Section IV – Recent Sale Data of the appeal petition disclosing the subject property was purchased on March 25, 2015 for a price of \$356,900. The appellant further reported the property was purchased from Travis and Kristy

Vanderloon, the parties to the transaction were not related, the property was sold by a realtor and was advertised in the Multiple Listing Service for a period of 44 days prior to being sold. In further support of the sale, the appellant submitted copies of the "Bill of Sale, a copy of an Affidavit of Title and a copy of the Settlement Statement reiterating the purchase price and date. The Settlement Statement also depicted the distribution of the brokers' fees to two entities.

The comparable sales were each located in the subject's neighborhood code and consist of two-story brick and frame dwellings that were 11 to 15 years old. The homes range in size from 2,635 to 2,936 square feet of living area and feature basements, two of which have finished areas. Each home has central air conditioning and a garage of either 350 or 700 square feet of building area. Two of the comparables each have a fireplace. The comparables sold between October 2013 and April 2014 for prices ranging from \$350,000 to \$355,000 or from \$120.90 to \$132.80 per square foot of living area, including land.

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 \$123,610. The subject's assessment reflects a market value of \$371,090 or \$131.50 per square foot of living area, land included, when using the 2015 three year average median level of assessment for Kane County of 33.31% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a memorandum dated October 19, 2015 along with data prepared by Diane Hemmingsen, St. Charles Township Assessor. Recognizing that the assessor's information was dated prior to the appellant's filing of an appeal with the Property Tax Appeal Board, much of the information does not relate to the appeal presented before the Board. The assessor contended that the sales are "relocation sales" and/or sold by Special Warranty Deed, "not considered an arm's-length transaction." As to the comparable sales submitted by the appellant, the assessor noted one property backs to commercial property, one has an unfinished basement and the comparables were inferior in quality of construction.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on three comparable sales located in the subject's subdivision. The comparables consist of two-story brick and frame dwellings that were built in 1999 or 2001. The homes range in size from 2,786 to 2,965 square feet of living area and feature basements, two of which have finished areas. Each home has central air conditioning, a fireplace and a garage ranging in size from 445 to 670 square feet of building area. The comparables sold between June 2014 and August 2014 for prices ranging from \$373,000 to \$388,000 or from \$130.86 to \$134.60 per square foot of living area, including land.

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

In written rebuttal, the appellant submitted an appraisal of the subject property prepared in relation to the purchase transaction reflecting an estimated market value for the subject of \$360,000.

Pursuant to the rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)). In light of these rules, the Property Tax Appeal Board has not considered the appraisal submitted by appellant in conjunction with his rebuttal argument.

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 March, 2015 for a price of \$356,900. 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 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 44 days. In further support of the transaction the appellant submitted a copy of the Settlement Statement along with other documentation. The Board finds the purchase price of \$356,900 is below the market value reflected by the assessment of \$371,090.

Furthermore, the Property Tax Appeal Board finds the board of review did not present any substantive evidence to challenge the arm's length nature of the subject's sale transaction other than asserting summarily it was a "relocation sale." In addition, the assessing officials did not refute the contention that the purchase price was reflective of market value, particularly in light of three additional sales in the neighborhood which were presented by the appellant which sold in late 2014 for prices of \$350,000 and \$355,000 as reported by the board of review.

While the Board recognizes that the assessing officials presented three additional comparable sales that sold earlier in 2014 for prices ranging from \$373,000 to \$388,000, 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 Illinois Supreme Court 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970).

Based on this record the Board finds the subject property had a market value of \$356,900 as of January 1, 2015. Since market value has been determined the 2015 three year average median level of assessment for Kane County of 33.31% shall apply. 86 Ill.Admin.Code §1910.50(c)(1).

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.