



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

APPELLANT: Tuu Duc Le & Xuan Le Family Trust
DOCKET NO.: 15-01383.001-R-1
PARCEL NO.: 14-35-456-044

The parties of record before the Property Tax Appeal Board are Tuu Duc Le & Xuan Le Family Trust, 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: \$5,891
IMPR.: \$30,105
TOTAL: \$35,996

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 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 2-story row-house dwelling of frame construction with brick trim on a slab foundation. The dwelling was constructed in 2005 and contains 1,621 square feet of living area. Features of the home include central air conditioning and a 399 square foot garage. The dwelling is situated on a typical lot and is located in Montgomery, Sugar Grove Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants completed Section IV - Recent Sale Data of the appeal and submitted a Settlement Statement disclosing the subject property was purchased on April 25, 2014 for a price of \$108,000 or \$66.63 per square foot of living area, including land. The subject was purchased from an individual in a short sale, commissions were paid to two realtors and the sale was not between family or related corporations. The appellants disclosed that the property was advertised through

the Multiple Listing Service (MLS) and submitted an MLS Listing Sheet indicating the subject was on the market 9 days. The appellants also submitted an MLS Listing and Property History Report indicating the subject had a listing date of October 30, 2012, went under contract November 7, 2012, and closed May 2, 2014. 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 \$51,191. The subject's assessment reflects a market value of \$153,681 or \$94.81 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 support of its contention of the correct assessment the board of review submitted information on three comparable sales. They are described as 2-story row-house dwellings of frame construction with brick trim built in 2003 or 2004. They have no basements. Each contains 1,621 square feet of living area and features central air conditioning and a 399 square foot garage. These comparables are located on the same street and within .09 of a mile from the subject. These comparables sold in June or July 2014 for prices ranging from \$150,000 to \$153,500 or from \$92.54 to \$94.69 per square foot of living area land included.

In rebuttal, the appellants' counsel claims the board of review does not dispute the recent sale of the subject, nor does it provide any evidence that the recent sale was not valid.

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.

Initially, the Board takes judicial notice of Public Act 96-1083 which amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "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.]

Section 16-183 provides:

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.

The Board finds the effective date of these statutes is applicable to the assessment date at issue, January 1, 2015.

The appellants provided evidence that the subject property sold on April 25, 2014 for a price of \$108,000 or \$66.63 per square foot of living area, including land. The appellants completed Section IV - Recent Sale Data of the appeal and submitted a Settlement Statement and an MLS Listing Sheet disclosing that the property was purchased from an individual in a short sale, the parties to the transaction were not related, the property was sold using a realtor and the property had been advertised through MLS. The MLS Listing Sheet indicated the subject had an asking price of \$104,900 as of October 30, 2012 and had been on the market 9 days before entering into contract November 7, 2012 for a sale price of \$108,000. The Board finds the best evidence of market value is the sale of the subject in April 2014 for \$108,000. The Board finds the purchase price is below the market value reflected by the assessment and 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. The Board gave less weight to the board of review comparable sales. Although there were similarities to the subject, these sales do not overcome the subject's arm's-length sale price. Therefore, 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



Acting 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: June 23, 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.