



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

APPELLANT: Austin Holdings, Patrick Koziol & Timothy Ramseyer
DOCKET NO.: 15-01648.001-R-1
PARCEL NO.: 06-23-257-001

The parties of record before the Property Tax Appeal Board are Austin Holdings, Patrick Koziol & Timothy Ramseyer, 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: \$6,748
IMPR.: \$33,125
TOTAL: \$39,873

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 part 1-story and part 1.5-story dwelling of brick exterior construction with 1,709 square feet of living area. The dwelling was constructed in 1940. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and a detached 384 square foot garage. The property has a 5,512 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants submitted evidence concerning a recent purchase price of the subject property along with submission of information on eight comparable sales.

As to the purchase of the subject, the appellants disclosed the subject property was purchased in September, 2013 for a price of \$62,000. The appellants partially completed Section IV - Recent

Sale Data of the appeal disclosing the property was purchased from unrelated parties, the property was sold using a Realtor and the property had been advertised on the open market with the Multiple Listing Service (MLS). 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 two brokers' fees to one realty firm; a copy of the MLS listing sheet which indicated the property was available for cash financing, was a short sale and was on the market for 412 days; a copy of the Listing & Property History Report that indicated the property had an original asking price of \$89,900 in August 2012; and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration concerning the subject's sale.

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, number of fireplaces, air conditioning amenity and garage size along with sale date, sales price and price per square foot of living area of eight suggested comparable properties. The comparables consist of part 1-story and part 1.5-story dwellings, none of which is located in the same subdivision as the subject property and were located from .41 of a mile to 1.94-miles from the subject property. The homes were built between 1910 and 1952 and range in size from 1,391 to 1,711 square feet of living area. Each comparable has a full or partial basement. Two of the comparables each have a fireplace and each comparable has a garage ranging in size from 240 to 484 square feet of building area. The properties sold between February 2014 and April 2015 for prices ranging from \$43,000 to \$110,250 or from \$29.09 to \$70.31 per square foot of living area, including land. The analysis included a section entitled Property Equalization Values which appears to depict adjustments to the comparables for sale date, land, age, size, basement area, baths, fireplaces, air conditioning and/or garage size. The bottom of the analysis depicted a reduction in the subject's assessment of \$22,319 to arrive at an assessment reflective of the subject's September 2013 purchase price of approximately \$62,000. 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 an assessment reflective of the subject's purchase price as of the assessment date of January 1, 2015.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$42,984. The subject's assessment reflects a market value of approximately \$128,965 or \$75.46 per square foot of living area, land included, when applying the statutory level of assessment of 33.33%.

In response to the appeal, the board of review submitted a memorandum from the township assessor along with additional data. The assessor noted that the subject property is not owner occupied, is an income producing property and was purchased as an investment property in 2013. As to the appellants' comparable sales, the assessor contends each was a "distressed sale." The assessor noted that appellants' comparables #2, #3, #5, #6 and #8 sold in 2015. Furthermore, the assessor asserted that appellants' sales #1, #3 and #5 were "not exposed to the open market." It was further asserted that appellants' comparables #1 and #4 were of frame exterior construction rather than brick like the subject.

In support of its contention of the correct assessment the board of review through the township assessor submitted a grid analysis with information on nine comparable sales. The information includes the proximity, design, exterior construction, year of construction, dwelling size, basement size and whether finished, air conditioning feature, number of fireplaces and garage size along with sale date, sales price and price per square foot of living area. The comparables consist of four, 1.5-story and five, part 1-story and part 1.5-story frame or brick dwellings, none of which is located in the same subdivision as the subject property. The comparables are located from .14 of a mile to 1.04-miles from the subject property. The homes were built between 1913 and 1939. The homes range in size from 1,481 to 1,847 square feet of living area. Each comparable has a basement, four of which have finished areas. Five of the comparables have a fireplace and each of the comparables has a garage ranging in size from 180 to 440 square feet of building area. The properties sold between February 2012 and October 2014 for prices ranging from \$133,500 to \$185,000 or from \$77.42 to \$114.84 per square foot of living area, including land. Comparable sale #7 was sold via "Special Warranty Deed – Bank REO" as reported in the grid.

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

In written rebuttal, in response to the criticism of the appellants' comparable sales, counsel for the appellants contended that "compulsory sales" are valid comparable sales pursuant to Section 16-183 of the Property Tax Code. (35 ILCS 200/16-183)¹ Counsel further disputed the contention that appellants' sales #1, #3 and #5 were not advertised and provided copies of the PTAX-203 Illinois Transfer Declarations which depicted the properties were advertised prior to the respective sales transactions.

As to the nine comparables presented by the board of review, counsel for the appellants argued that sales #1 through #6 sold in either 2012 or 2013, dates too remote in time to be indicative of market value in 2015. Furthermore, sale #7 is reported as only a 1.5-story dwelling which differs from the subject. Counsel indicated that board of review sales #8 and #9 are "acceptable" comparables and placed those in a grid along with appellants' comparables #1, #2, #4, #7 and #8. Considering all of these "best" comparable sales, counsel argued that a reduction in the subject's assessment is warranted and further argued that an analysis of raw sales prices per square foot "does not taken into account the fundamental concept of using a median sale price/SF to determine market value." Appellants 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

¹ "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."

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.

Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). 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 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 argument in this matter, the parties submitted the September 2013 sale of the subject property along with 17 suggested comparable sales for consideration by the Property Tax Appeal Board. The Board has given reduced weight to board of review comparables #1 through #4 which sold in 2012, dates more remote in time and thus less likely to be indicative of the subject's estimated market value as of January 1, 2015.

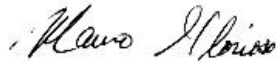
As part of the rebuttal argument, the appellants contend that a sale that occurs in 2013 is also too remote in time to be indicative of market value as of January 1, 2015. As such, the appellants argue in rebuttal that their recent sale price evidence concerning the subject property is not valid evidence of market value. While the Property Tax Appeal Board recognizes that proximity in time of the sale date to the lien date is an important consideration, the Board will consider the sale of the subject and those comparable sales that occurred late in calendar year 2013; the Board has, however, given reduced weight to board of review comparable #5 which sold in April 2013 and also appears to be an outlier as this property sold for \$185,000.

The Property Tax Appeal Board in its analysis has also given reduced weight to appellants' comparables #2, #3, #4, #5 and #6 as these properties were located from 1.03 to 1.94-miles from the subject property.

The Board finds the best evidence of market value in the record to be consideration of the September 2013 sale of the subject property along with appellants' comparable sales #1, #7 and #8 and board of review comparable sales #6, #7, #8 and #9. The comparables were located from .17 to .98 of a mile from the subject property and sold between December 2013 and April 2015 for prices ranging from \$43,000 to \$145,000 or from \$29.09 to \$97.91 per square foot of living area, including land. These sales provided by the parties had varying degrees of similarity to the subject property. Also, two of the appellants' sales appear to have elements of being distressed or compulsory sales having sold for \$43,000 and \$75,000, respectively, which sets the low end of the range, along with the sale of the subject property for \$62,000 in September 2013 when it sold in "as-is" condition. In contrast, the sales identified by the township assessor appear to be more indicative of arm's length transactions reflective of fair cash value and set the upper end of the range.

Giving due consideration to the sale of the subject and the best comparable sales in the record, the Board gives most weight to appellants' sale #8 along with the best sales provided by the board of review as these comparables appear to be most similar to the subject in location, age, size, design and/or features and appear to be more representative of the market absent any compulsion or duress. These comparables sold for prices ranging from \$110,250 to \$145,000 or from \$70.31 to \$97.91 per square foot of living area, including land. The subject's assessment reflects a market value of \$128,965 or \$75.46 per square foot of living area, including land, which is within the range established by the best comparable sales in this record, but appears to be excessive when giving consideration to the subject's September 2013 purchase price. 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.