



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

APPELLANT: Raj Ponnuswamy
DOCKET NO.: 16-01434.001-R-2
PARCEL NO.: 09-14-327-023

The parties of record before the Property Tax Appeal Board are Raj Ponnuswamy, the appellant, by attorney Ronald Kingsley, of Lake County Real Estate Tax Appeal, LLC in Lake Forest, 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: \$84,901
IMPR.: \$154,643
TOTAL: \$239,544

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 2016 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 exterior construction with 5,572 square feet of living area. The dwelling was constructed in 1996. Features of the home include a partial English-style basement with finished area, central air conditioning, four fireplaces and a 1,247 square foot garage. The property has a .92-acre or 39,997 square foot site and is located in St. Charles, St. Charles Township, Kane County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on May 1, 2016 for a price of \$720,000.¹ The documentation depicts the sale to the appellant with seller being Marwan and Suzan Wahid, as co-trustees of a family trust. The property transferred via a Trustee's Deed. Also submitted was a copy of the Multiple Listing Service data sheet for the subject property

¹ Contrary to the instructions of the Residential Appeal petition, the appellant did not complete Section IV.

depicting a listing price of \$795,000 with an original list price of \$995,000 and a marketing time of 539 days showing Coldwell Banker Residential as the listing office. A Listing & Property History Report depicts the original list date of October 9, 2014 along with asking price reductions in February, April and November 2015. 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 \$340,179. The subject's assessment reflects a market value of \$1,022,480 or \$183.50 per square foot of living area, land included, when using the 2016 three year average median level of assessment for Kane County of 33.27% as determined by the Illinois Department of Revenue.

In response to the appeal along with additional sales comparables, the board of review contended that the "subject's sale occurred after the assessment date of 01/01/2016, however the BOR is willing to stipulate to a lower amount of \$890,000 considering the subject's listing history in addition to the sales provided by the assessor's office." The board of review proposed to stipulate to a total assessment of \$296,637 which would reflect a market value of \$891,605 at the 2016 three year average median level of assessment for Kane County.

As part of its evidence, the board of review presented a memorandum from the St. Charles Township Assessor's Office where the assessor stated, in pertinent part:

Owner purchased the subject property in May of 2016 which puts it outside of the three year time frame used to develop the current market value. Additionally, it is the Assessor's position that the comparables provided will establish the subject sale as an 'outlier' and is therefore, not indicative of the property's true market value.

In further support of its contention of the correct assessment, the board of review submitted information on five comparable sales gathered by the township assessor. The comparables are located in the same subdivision as the subject property and within .51 of a mile of the subject. The parcels range in size from .68 of an acre to 1.34-acres of land area which are each improved with two-story brick, brick and frame or brick, stucco and frame construction. The homes were built between 1989 and 1999 and range in size from 4,155 to 6,098 square feet of living area. Each home has a basement of either walkout-style or English-style with finished area. The homes have central air conditioning, three to five fireplaces and garages ranging in size from 816 to 1,215 square feet of building area. The comparables sold between May 2013 and September 2015 with comparable #1 selling both in May 2014 and September 2015 for \$110,000 less than its May 2014 sale price. The six sale prices that were reported range from \$845,000 to \$1,100,000 or from \$155.37 to \$205.76 per square foot of living area, including land.

Based on the foregoing evidence and proposal to stipulate, the board of review requested a reduction in the subject's total assessment to \$296,637.

The appellant through counsel was informed of this proposed assessment reduction by letter issued on November 16, 2017 with a deadline to respond by December 16, 2017. The appellant's counsel responded prior to the deadline and rejected the proposed settlement offer.

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.

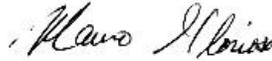
The Board finds the best evidence of market value contained in this record is the sale of the subject property in May 2016 for \$720,000. The Board finds the subject's sale meets the fundamental elements of an arm's-length transaction. The buyer and seller do not appear to be related based on any evidence presented in response to this appeal; the subject property was exposed to the open market for 539 days; and there is no direct evidence the parties to the transaction were under duress or compelled to buy or sell as the property which was originally listed for \$995,000 with subsequent asking price reductions to \$795,000 prior to the purchase by the appellant for \$720,000. The Illinois Supreme Court has defined fair cash value as 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 to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). The subject's assessment reflects an estimated market value of \$1,022,480, which is considerably more than its recent sale price.

The board of review did not present any credible evidence that would demonstrate the subject's sale was not an arm's-length transaction. Instead, the assessor and the board of review contended that the sale occurred after January 1, 2016 which is the statutory assessment date at issue in this appeal. As to this latter contention, the Property Tax Appeal Board gives no weight to the arguments concerning a May 2016 sale being inappropriate for determination of the estimated market value of the subject property as of January 1, 2016. With respect to the subject's January 1, 2016 assessment date, the Property Tax Appeal Board finds the legislature clearly contemplated subsequent events in the assessment process by inserting the language: "On or before **June 1** . . . the assessor, in person or by deputy, shall actually view and **determine as near as practicable the value of each property listed for taxation as of January 1 of that year.** . . . and assess the property at 33 1/3% of its fair cash value, or in accordance with Sections 10-110 through 10-140." The Board finds assessors are statutorily bound to determine a given property's fair cash value as near as practicable **as of** the date of January 1 of a given assessment year. Illinois courts recognized that assessing officials are not barred, as a matter of law, from considering events which occurred after the lien date in assessing properties and subsequent events assessing officials may consider in any individual case will depend on the nature of the event and the weight to be given the event will depend upon its reliability in tending to show value as of January 1. (See Application of Rosewell, 120 Ill. App. 3d 369 (1st Dist. 1983)).

The Board further finds the comparable sales submitted by the board of review do not overcome the subject's arm's-length sale price as provided by the aforementioned controlling Illinois case law. Additionally, sale #5 submitted by the board of review occurred in May 2013, a date remote in time to the assessment date at issue of January 1, 2016 and thus less likely to be indicative of the subject's market value and comparable sale #4 is significantly smaller than the subject dwelling. Moreover, the Board takes notice that comparable sale #1 sold twice in a period of less than 1.5 years for \$110,000 less.

Based on this analysis, the Board finds the subject property is overvalued and a reduction in its assessment is justified. Since fair market value has been established, Kane County's 2016 three-year average median level of assessment of 33.27% shall apply.

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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Acting Member



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: February 20, 2018



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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