



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

APPELLANT: Scott M. Schwebach
DOCKET NO.: 16-01711.001-R-1
PARCEL NO.: 06-14-330-001

The parties of record before the Property Tax Appeal Board are Scott M. Schwebach, the appellant, 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: \$14,476
IMPR.: \$13,785
TOTAL: \$28,261

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 part one-story and part two-story dwelling of frame exterior construction with 1,842 square feet of living area.¹ The dwelling was constructed in 1915. Features of the home include an unfinished basement and a 360 square foot garage. The property has a 17,424 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant's counsel submitted evidence disclosing the subject property was purchased on April 3, 2015 for a price of \$84,944. The appellant partially completed Section IV - Recent Sale Data of the appeal petition reporting that the subject property was purchased from the owner of record which was U.S. Bank, National Association as reported in the Settlement Statement submitted by the

¹ Appellant's counsel failed to complete Section III - Description of Property: descriptive data has been drawn from the property record card evidence provided by the board of review.

appellant. Also, the parties to the transaction were not related and the property was advertised by a realtor through the Multiple Listing Service. The appellant did not disclose how long the property was advertised for sale. Additionally, the PTAX-203 Real Estate Transfer Declaration disclosed the sale was a Bank REO (real estate owned) transaction. A copy of the Settlement Statement reflects the purchase price and the date of sale, however the purchase price differs from the amount shown on the PTAX-203 document. The appellant's attorney also submitted a brief in support of the appeal. 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 \$55,697. The subject's assessment reflects a market value of \$167,409 or \$90.88 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, the board of review submitted a memorandum prepared by the Elgin Township Assessor along with additional data. The assessor contended that the subject property was purchased with cash, in as-is condition as a Foreclosure in March 2015. The property was exposed to the market for 356 days as reported in the Multiple Listing Service sheet submitted by the assessor.

In support of its contention of the correct assessment, the board of review submitted information on nine comparable sales located from .05 to .81 of a mile of the subject property. The comparables were improved with three, two-story dwellings and six, part one-story and part two-story dwellings of frame exterior construction ranging in size from 1,409 to 2,009 square feet of living area. The dwellings were constructed from 1863 to 1933. Each comparable has a basement with three having finished area and central air conditioning. Additionally, four comparables have fireplaces and seven comparables have garages ranging in size from 240 to 576 square feet of building area. The comparables have sites ranging in size from 6,315 to 14,810 square feet of land area. These properties sold from February 2014 to June 2016 for prices ranging from \$140,000 to \$211,500 or from \$90.12 to \$119.69 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's counsel contends the board of review evidence is not responsive nor relevant to the basis of the appeal.

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 April 2014 for a price of \$84,944. 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 and the property had been advertised on the open market through the Multiple Listing Service. In further support of the transaction, the appellant submitted a copy of the settlement statement. The 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 it was a "foreclosure sale." In addition, the assessing officials did not refute the contention that the purchase price was reflective of market value. The Board finds the purchase price of \$84,944 is below the market value of \$167,409 as reflected by the assessment. The Board gave less weight to the comparables sales submitted by the board of review as they each have superior central air conditioning features. In addition, comparables #1 through #3 also have superior finished basement foundations when compared to the subject and comparables #4 through #9 sales in 2013 and 2014 are dated and less likely to reflect the subject's market value as of the January 1, 2016 assessment date. Furthermore, the Property Tax Appeal Board gave less weight to the board of review comparable sales as these sales do not overcome the subject's arm's-length sale price. Based on this record the Board finds the subject property had a market value of \$84,944 as of January 1, 2016. Since market value has been determined the 2016 three-year average median level of assessment for Kane County of 33.27% shall apply. 86 Ill.Admin.Code §1910.50(c)(1).

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(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) 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

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: July 16, 2019



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

AGENCY

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