



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

APPELLANT: James & Jennifer Schneider
DOCKET NO.: 16-02641.001-R-1
PARCEL NO.: 18-19-27-140-020

The parties of record before the Property Tax Appeal Board are James & Jennifer Schneider, the appellants, and the Fulton 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 **Fulton** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$1,610
IMPR.: \$7,057
TOTAL: \$8,667

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Fulton 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 one-story dwelling of brick construction with 1,348 square feet of living area.¹ The dwelling was constructed in 1954. Features of the home include a crawl-space foundation and an attached one-car garage. The property has an approximately 7,708 square foot site and is located in Lewistown, Lewistown Township, Fulton County.

The appellants' appeal is based on overvaluation. In support of this argument, the appellants submitted evidence disclosing the subject property was purchased on October 27, 2016 for a price of \$26,000. The appellants completed Section IV – Recent Sale Data of the Residential

¹ Both the appellants and the Multiple Listing sheet for the property indicate a dwelling size of 1,348 square feet of living area. The board of review reported a dwelling size of 1,064 square feet of living area with support from an attached property record card that includes an illegible schematic drawing of the dwelling. While there is a factual dispute on the record concerning the dwelling size, the Property Tax Appeal Board finds that on this record the size discrepancy does not prohibit a determination of the correct assessment of the subject property.

Appeal petition reporting that the property was purchased from Mid-America National Bank, the parties to the transaction were not related and the property was advertised through Gorsuch-Hensley Real Estate, agent Pat Bainter, with the Multiple Listing Service for a period of 41 days before being purchased. The property was sold in settlement of a foreclosure action and the appellants have expended \$500 on paint and supplies before occupying the property as of December 1, 2016. As documentary support, the appellants also submitted a copy of the Settlement Statement regarding the sale transaction which reiterates the purchase date and sale price while also depicting payment of broker fees in connection with the sale. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the purchase price of \$26,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$12,320. The subject's assessment reflects a market value of \$36,864 or \$27.35 per square foot of living area, land included, when using the 2016 three year average median level of assessment for Fulton County of 33.42% as determined by the Illinois Department of Revenue.

In response to the appeal based upon a recent purchase price, the board of review contends that the transaction "by definition, was not a true, 'arms-length' transaction, but more of a distressed sale." The board of review provides documentation that the property was deeded in July 2016 to Mid-America Bank, in lieu of foreclosure, by the estate of the previous owner. Thereafter, the property was listed for sale in September 2016 and sold to the appellants as reported. As documentary support, the board of review included a copy of the listing sheet for the subject property which depicts an original asking price of \$39,900 for the property and the sold price of \$26,000 with the property having been on the market for 41 days. Also submitted was a copy of the PTAX-203 Illinois Real Estate Transfer Declaration noting the property was a "Bank REO (real estate owned)" transaction.

In support of its contention of the correct assessment, the board of review submitted information on three comparable sales in a grid analysis. The comparable parcels range in size from 5,000 to 8,625 square feet of land area and have each been improved with one-story dwellings of vinyl siding exterior construction. The comparables were built in 1954 or 1963 and range in size from 920 to 1,200 square feet of living area. One comparable has a full basement and two comparables have crawl-space foundations. One of the comparables also has a 336 square foot garage. The three comparable properties sold between February and September 2016 for prices ranging from \$41,000 to \$59,900 or from \$40.63 to \$49.92 per square foot of living area, including land.

Based on this evidence of comparable sales that sold in the general market area of the subject for more than the purchase price of the subject, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellants reiterated that the subject property was listed with a realtor, was advertised on the open market for 2.5 months and reduced twice before being purchased. As to the comparable properties presented by the board of review, the appellants contend each comparable has three bedrooms, two of the comparables have two bathrooms and one comparable has a partially finished basement.

Also attached to the appellants' rebuttal were Multiple Listing sheets for each of the three board of review comparable properties with notations of the number of bedrooms on the documents. Also, comparable sale #2 was depicted as having sold in March 2016 for \$35,000 as compared to the board of review contention of a March 2016 sale for \$47,500. Additionally, board of review comparable #1 is depicted as an REO on the Multiple Listing sheet.

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.

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). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967).

In addition, 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.

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, 2016. Based on these statutes, the Property Tax Appeal Board finds it is appropriate to consider the sale of the subject property in revising and correcting the subject's assessment. From a logical analysis, if the sale of the subject could be utilized as a comparable sale by a neighboring taxpayer to argue an overvaluation claim, it would be inconsistent to disallow consideration of the subject's own sale price in an overvaluation appeal. In summary, the Property Tax Appeal Board finds these statutes are instructive as to revision of the 2016 assessment of the subject property in light of the purchase transaction which was a transfer occurring after the foreclosure proceeding was complete.

On this record, the Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in October, 2016 for a price of \$26,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction as outlined in detail in this decision. The appellants reported 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 for a period of 41 days.

The Board has given little weight to the comparable sales presented by the board of review. These comparable sales fail to overcome the apparent arm's-length nature of the sale transaction of the subject property despite the fact that the sale occurred after a foreclosure action. The Property Tax Appeal Board also finds the purchase price of \$26,000 is below the market value reflected by the assessment of \$36,864.

Based on this record, the Board finds the subject property is overvalued and a reduction in the subject's 2016 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. 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: April 23, 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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