



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

APPELLANT: Daniel Imse
DOCKET NO.: 18-00938.001-R-1
PARCEL NO.: 04-10-301-009

The parties of record before the Property Tax Appeal Board are Daniel Imse, the appellant, by attorney Laura Godek, of Laura Moore Godek, PC in McHenry; 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: \$13,210
IMPR.: \$22,944
TOTAL: \$36,154

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 2018 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 frame exterior construction with 1,824 square feet of living area. The dwelling was constructed in 1959. Features of the home include an unfinished basement, central air conditioning, a fireplace, and a 2.5-car garage. The property has an approximately 20,750-square foot site and is located in Burlington, Burlington Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant completed Section IV – Recent Sale Data and reported that the subject property was purchased on January 5, 2017 for a price of \$108,407. The appellant further reported that the parties to the transaction were not related, the property was sold through a realtor and the property was advertised through the Multiple Listing Service (MLS). A copy of the MLS data sheet depicted that the subject property had been on the market for 7 days with an original asking

price of \$119,000. In further support of the appeal, the appellant provided a copy of the settlement statement disclosing the seller was "Stout Family Trust dated May 18, 2015" and reiterated the purchase price, date of sale, and depicting that broker's fees were distributed to two entities. The settlement statement also disclosed that funds in the amount of \$19,000 were held back as "Undisbursed Loan Proceeds." The appellant also submitted a copy of the real estate purchase and sale contract depicting that the property was purchased "as is." Finally, the appellant submitted a copy of the Illinois Real Estate Transfer Declaration (PTAX-203) form associated with this sale which reiterated the purchase price, that it was advertised for sale, and that the intended use was as buyer's principal residence. 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 \$53,328. The subject's assessment reflects a market value of \$159,904 or \$87.67 per square foot of living area, land included, when using the 2018 three-year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review, through the Burlington Township Assessor, argued that the subject property's MLS data sheet depicted "[p]erfect opportunity for a handyman to update." The board of review argued that after the home was occupied for more than one year, after which the board of review sent a letter dated September 7, 2018 to the taxpayer's attorney requesting to inspect the property. The board of review contended that after receiving no response to the first letter, it sent another letter to the taxpayer's attorney dated April 12, 2019 in anticipation of an appeal before the Property Tax Appeal Board to which, again, no response was received. The board of review submission includes copies of the letters to the taxpayer's attorney, along with the MLS data sheet and the subject's property record card.

In support of its contention of the correct assessment, the board of review also submitted two grid analyses containing four comparable sales and six equity comparables, respectively. The comparable sales were located from .33 of a mile to 1.16 miles from the subject. The comparables have sites that range in size from approximately .2 of an acre to 4.1 acres. The site size of comparable sale #3 was not disclosed. The comparable sales are improved with one-story dwellings of frame or frame and masonry exterior construction that range in size from 936 to 1,696 square feet of living area. The dwellings were constructed from 1956 to 1965. The comparable sales each feature a basement; two comparables each have either a wood-burning stove or two fireplaces; and each comparable has an attached or detached garage ranging in size from 352 to 1,096 square feet of building area. The properties sold from August 2016 to May 2018 for prices ranging from \$165,000 to \$320,000 or from \$158.88 to \$190.17 per square foot of living area, land included. The six equity comparables had improvement assessments ranging from \$40,716 to \$66,413 or from \$24.59 to \$40.40 per square foot of living area. Based on this evidence and argument, the board of review requested the subject's assessment be confirmed.

In rebuttal, counsel for the appellant submitted a brief, first of all, waiving the appellant's request for a hearing and requesting that the Property Tax Appeal Board make a decision in this appeal based on the evidence submitted. In the brief, the appellant's counsel then argued that the sale of the subject property had all the elements of an arm's length transaction which was undisputed by the board of review. Counsel next, argued that the board of review comparable sales were

dissimilar to the subject in many specified aspects and that, if considered at all by the Property Tax Appeal Board, they would require many adjustments to account for the differences from the subject property. With regard to the board of review's submission of equity comparables, appellant's counsel argued that the appellant's claim was overvaluation and not based on inequity in assessment and, therefore, the equity evidence should be disregarded. Finally, counsel argued that the sale of the subject property on January 5, 2017 for a price of \$108,407 is the best evidence of the value of the subject property as of January 1, 2018.

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.

Initially, The Property Tax Appeal Board gives no weight or credence to the assertion by the board of review that it was denied an inspection of the subject dwelling. Section 1910.94 of the rules of the Property Tax Appeal Board states:

Inspection of Subject Property – Effect of Denial by Taxpayer or Property Owner

- a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes.
- b) **Any motion made to invoke this Section** shall incorporate a statement detailing the consultation and failed reasonable attempts to resolve differences over issues involving inspection with the taxpayer or property owner. [Emphasis added]

86 Ill.Admin.Code §1910.94. The Board finds that although the township assessor requested and was denied the opportunity to inspect the subject property, the board of review did not avail itself of the proper remedy provided under 86 Ill.Admin.Code §1910.94 by filing a timely and appropriate motion with Property Tax Appeal Board pursuant to Section 1910.94 incorporating a statement detailing the failed board of review's reasonable attempts made involving inspection with the taxpayer's counsel. By a letter dated July 10, 2019, the Property Tax Appeal Board granted the board of review a final 60-day extension to file responsive documents to the appellant's claim. By a letter dated October 3, 2019, the Property Tax Appeal Board notified the parties that the filing period for submission of evidence is now closed. While the board of

review submitted timely evidence in support of the assessment, it did not file a motion before Property Tax Appeal Board requesting an inspection of the subject property during the time when the Board was accepting documentary evidence.

Additionally, the Property Tax Appeal Board gives no weight to the equity comparables submitted by the board of review as they are non-responsive to the taxpayer's appeal which is based on market value of the subject property.

The Board finds the best evidence of market value in the record to be the purchase of the subject property in January 2017 for a price of \$108,407. 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, the property was sold using a Realtor, and that the property had been advertised on the open market through the Multiple Listing Service. The listing sheet provided by the appellant disclosed the subject property had been on the market for 7 days. In further support of the transaction, the appellant submitted copies of the settlement statement and the Illinois Real Estate Transfer Declaration (PTAX-203) form associated with the sale. The Board finds the purchase price is below the market value reflected by the assessment of \$159,904. The Board finds the board of review did not present any evidence to challenge the arm's length nature of the subject's sale transaction. In addition, the assessing officials did not refute the contention that the purchase price was reflective of market value. The Board finds the evidence disclosed via the MLS is that the subject was in need of remodeling, that it was sold "as is" and the settlement statement depicts that funds were held back by the lender presumably for future improvements to the subject which all call into question the condition of the property at the time of purchase. 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).

The Board gave less weight to the comparable sales submitted by the board of review as two of the four sales occurred in 2016, which are dated and less likely to be reflective of the subject's market value as of the January 1, 2018 assessment date. Additionally, the remaining two comparable sales have significantly smaller dwellings sizes relative to the subject, and also lack central air-conditioning which is a feature of the subject dwelling.

Based on this record, the Board finds the subject's assessment is not reflective of market value and 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. 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: January 19, 2021



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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