



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

APPELLANT: Eric Nelmark
DOCKET NO.: 18-04214.001-R-1
PARCEL NO.: 05-23-214-056

The parties of record before the Property Tax Appeal Board are Eric Nelmark, the appellant, by Dennis D. Koonce, Attorney at Law in Frankfort; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$23,700
IMPR.: \$146,633
TOTAL: \$170,333

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage 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 2-story condominium dwelling of frame and masonry exterior construction with 2,570 square feet of living area. The dwelling was constructed in 2008. Features of the home include an unfinished basement, central air conditioning, a fireplace, and an attached 2-car garage containing 436 square feet of building area.¹ The property is located in Glen Ellyn, Milton Township, DuPage 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 August 31, 2017 from Steven Anderson for a price of \$511,000. 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 data sheet

¹ Some descriptive information of the subject was drawn from the Multiple Listing Service (MLS) data sheet provided by the appellant and/or the subject's property record card provided by the board of review.

depicted that the subject property was originally listed for \$550,000 and had been on the market for 108 days. In further support of the appeal, the appellant provided a copy of the Settlement Statement associated with the sale of the subject which reiterated the purchase price, date of sale, and depicted broker's fees being distributed to two entities. Based on this evidence, the appellant requested a reduction in the subject's assessment to approximately reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$177,000. The subject's assessment reflects a market value of \$531,851 or \$206.95 per square foot of living area, land included, when using the 2018 three-year average median level of assessment for DuPage County of 33.28% as determined by the Illinois Department of Revenue.

In support of the assessment, the board of review submitted information and property record cards on five comparable sales located in the same neighborhood code as the subject property. The comparables are improved with 2-story condominium dwellings of frame and masonry exterior construction ranging in size from 2,072 to 2,253 square feet of living area. The dwellings were constructed in either 2007 or 2009. Each comparable features a basement with four being partially finished. Each comparable also features central air-conditioning, a fireplace, and a 2-car garage ranging in size from 423 to 483 square feet of building area. The comparables sold from January 2016 to April 2018 for prices ranging from \$425,000 to \$507,500 or from \$203.29 to \$222.01 per square foot of living area, including land.

In response to the appeal, the board of review submitted an "Assessment Data Sheet" for the subject, along with a narrative report contending that the subject's assessment was "... reduced to the sale price in 2017 and received the county equalization factor in 2018 of 3.83%." The board of review also contended that the Executor's Deed, which was the instrument of transfer of the subject property, is not included in the sales ratio study.² The board of review also submitted the Illinois Real Estate Transfer Declaration (PTAX-203) form associated with the sale of the subject in addition to a sample PTAX-203 form depicting which line items on the form are to be included or excluded from the sales ratio study. Based on this evidence and argument, the board of review requested the subject's assessment be confirmed.

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 in the record to be the purchase of the subject property in August 2017 for a price of \$511,000. The appellant provided evidence

² Although not expressly stated by the board of review, the Property Tax Appeal Board will presume that the board of review is contesting the arm's-length nature of this sale transaction due to an Executor's Deed being the instrument of transfer of the subject property.

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 MLS listing sheet provided by the appellant disclosed the subject property had been on the market for 108 days. In further support of the transaction, the appellant submitted a copy of the Settlement Statement associated with the sale of the subject which reiterated the purchase price, date of sale, and depicted broker's fees being distributed to two entities. The Board finds the market value reflected by the assessment of \$531,851 is higher than the purchase price of \$511,000. Importantly, the Board finds that although an Executor's Deed was the instrument of transfer, the board of review did not present any evidence to refute the contention that the purchase price was reflective of market value or challenge the arm's length nature of the transaction. Finally, the Board finds that the disclosure made by the board of review that the subject's 2017 assessment was reduced to reflect the purchase price adds validity to the conclusion the sale price was indicative of the subject's fair cash value as of the January 1, 2018 assessment date.

The Illinois Supreme Court has held that 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 of whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). The Property Tax Appeal Board finds that the five 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, each of the board of review comparables had a sale price which was lower than the market value of the subject as reflected by its assessment lending support to appellant's claim that the subject property is over-assessed. 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 commensurate with the appellant's request 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

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

Eric Nelmark, by attorney:
Dennis D. Koonce
Attorney at Law
11255 Patrick Court
Frankfort, IL 60423

COUNTY

DuPage County Board of Review
DuPage Center
421 N. County Farm Road
Wheaton, IL 60187