



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

APPELLANT: John & Barbara Mullen
DOCKET NO.: 20-05574.001-R-1
PARCEL NO.: 11-12-444-003

The parties of record before the Property Tax Appeal Board are John & Barbara Mullen, the appellants, 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: \$14,782
IMPR.: \$103,504
TOTAL: \$118,286

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 2020 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 aluminum siding exterior construction with 2,696 square feet of living area.¹ The dwelling was constructed in 2006. Features of the home include a basement with finished area, central air conditioning, a fireplace and a two-car garage with 483 square feet of building area. The property has an approximately 5,663 square foot site and is located in Geneva, Blackberry Township, Kane County.

¹ The description of the subject property was obtained from the Multiple Listing Service (MLS) listing sheet provided by the appellants and the information presented by the board of review in its grid analysis. The appellants failed to complete Section III describing the subject and the board of review did not provide a copy of the property record card as required by the rules of the Property Tax Appeal Board (85 Ill.Admin.Code §1910.40(a)) for the subject property.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on January 17, 2020 for a price of \$355,000 or \$131.68 per square foot of living area, including land. The appellants' counsel reported that the subject property was purchased from the owner of record, the parties to the transaction were not related and the property was advertised using a realtor. The appellants submitted a copy of the Multiple Listing Service (MLS) listing sheet depicting the property had been on the market for 28 days. The MLS indicated that prior to the final purchase price of \$355,000, the subject property was originally listed on November 9, 2019 for an asking price of \$359,900. A copy of the Settlement Statement reflects the purchase price, the date of sale and identified the seller as Mary Ann Martin, trustee of the Mary Ann Martin Living Trust dated July 14, 2016. The Settlement Statement also disclosed that commissions were paid to two realty agencies. Based on this evidence, the appellants 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 \$120,084. The subject's assessment reflects a market value of \$360,396 or \$133.68 per square foot of living area, land included, when using the 2020 three-year average median level of assessment for Kane County of 33.32% as determined by the Illinois Department of Revenue.

On the Notes, the board of review agrees the subject sold in January 2020 for a price of \$355,000. The board of review explained that it reduced the subject's assessment to \$120,084 reflecting an estimated market value of \$360,288. After analyzing the subject's sale, the assessor's evidence and considering the 2020 Blackberry Township equalization factor of 1.0149, the board of review argued the subject's assessment should not be lowered below the board of review reduction.

In further response, the board of review submitted a letter prepared by the Blackberry Township Assessor. The assessor contends an email was sent to the appellants' attorney and a proposal was made to lower the subject's assessment to \$120,084. This offer reflects the sale price of \$355,000 plus the application of the 2020 township equalization factor of 1.0149. A copy of the stipulation agreement is included with the assessor's evidence. According to the assessor the stipulation was declined by the appellants' attorney.

In further support of its contention of the correct assessment, the board of review, through the township assessor's office, submitted information on three comparable sales located in the same assessment neighborhood code as the subject and within .26 of a mile from the subject property. The comparables have sites that range in size from approximately 4,792 to 5,119 square feet of land area. The comparables are improved with two-story dwellings of brick and vinyl siding, aluminum siding and stone or aluminum siding and brick exterior construction ranging in size from 2,588 to 2,707 square feet of living area. The dwellings were built from 2000 to 2015. The comparables each have a basement, two of which have finished area. Each comparable has central air conditioning, a fireplace and a garage ranging in size from 460 to 691 square feet of building area. The comparables sold from July to December 2019 for prices ranging from \$352,000 to \$415,000 or from \$136.01 to \$153.31 per square foot of living area, land included.

Based on the foregoing, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellants' counsel argued that the inclusion of a township equalization factor is not appropriate in this appeal because it is already included in the assessment being appealed. Counsel asserted that pursuant to 35 ILCS 200/16-80 of the Property Tax Code, the county is required to maintain the prior tax year county decision, plus township equalization, for the remainder of the general assessment period. In this case there was no prior county decision to maintain and thus no township equalization factor should be included. In addition, a township equalization factor may be applied for Property Tax Appeal Board (PTAB) "rollover" appeals where PTAB granted a reduction in the prior tax year and the tax year being appealed is in the same general assessment period. In this case there was no prior PTAB decision and thus no township equalization factor should be included. For these reasons, counsel requested a reduction in the subject's assessment to reflect the purchase price.

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.

The appellant presented the January 2020 purchase price of the subject and the board of review acknowledged the purchase but also supplied three comparable sales in support of their respective positions before the Property Tax Appeal Board.

The Board finds the best evidence of market value to be the purchase of the subject property in January 2020 for a price of \$355,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellants partially 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, the property had been advertised on the open market with the Multiple Listing Service. In further support of the transaction, the appellants submitted a copy of the MLS sheet indicating that the subject had been on the market for 28 days. Additionally, a copy of the Settlement Statement submitted by the appellants depicts commissions were paid to two realty agencies.

The board of review did not dispute the arm's length nature of the subject's sale transaction. The Property Tax Appeal Board has given less weight to the three comparable sales presented by the board of review. The Board finds these comparable sales do not overcome the subject's arm's length sale transaction.

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 on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). The Board finds the subject's purchase price of \$355,000 is below the market value reflected by the assessment of \$360,396, land included.

The Board further finds that the board of review agreed that the January 2020 sale was an arm's length transaction and determined the purchase price was sufficient to reduce the subject's assessment to reflect that transaction plus the 2020 township equalization factor. However, the Property Tax Appeal Board finds the argument by the assessing officials that the subject's 2020 sale price should be increased by 1.49% due to the Blackberry Township equalization factor of 1.0149 is unsupported and unpersuasive.

The Board finds that the Kane County Board of Review did not present any substantive evidence of subsequent events that occurred which would cause a change in the subject's market value from its January 17, 2020 purchase price as of January 1, 2020 by 1.49%.

Furthermore, the Board takes judicial notice of the purpose of equalization factors as set forth in the Illinois Department of Revenue publication, PTAX-1004, The Illinois Property Tax System, page 17, concerning how uniformity in assessments is achieved by applying equalization factors:

The assessment/sales ratio study shows **whether or not assessments within a given area actually average 33 1/3 percent of market value**. If the results of the study indicate that assessments are either higher or lower than 33 1/3 percent, a blanket percentage increase or decrease, called an "equalization factor" or "multiplier" is calculated and applied to all non-farm property to bring the level of assessment to 33 1/3 percent. The application of this uniform percentage increase or decrease to assessed values is called "equalization." [Emphasis added.]

Here, where the subject's sale occurred 17 days after the assessment date at issue of January 1, 2020 and in the absence of other market value evidence suggesting that the sale price was no longer reflective of market value, the Property Tax Appeal Board finds that the application of the equalization factor is not appropriate to this arm's length sale that occurred on January 17, 2020 given the purposes for equalization.

In conclusion, the Board finds the subject property had a market value of \$355,000 as of January 1, 2020. Since market value has been determined the 2020 three-year average median level of assessment for Kane County of 33.32% 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:

April 18, 2023



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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