



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

APPELLANT: Edward Herchenbach
DOCKET NO.: 13-01819.001-R-1
PARCEL NO.: 11-16-409-005

The parties of record before the Property Tax Appeal Board are Edward Herchenbach, the appellant, by attorney Laura Godek, of Laura Moore Godek, PC in McHenry; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$20,000
IMPR.: \$29,995
TOTAL: \$49,995

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Lake County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 1.5-story dwelling of brick exterior construction with 2,000 square feet of living area. The dwelling was constructed in 1938. Features of the home include a full unfinished basement, one bathroom and a two-car detached garage. The property has a 7,500 square foot site and is located in Libertyville, Libertyville Township, Lake County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on December 27, 2012 for a price of \$150,000 or \$75.00 per square foot of living area, including land. The appellant completed Section IV – Recent Sale Data on the appeal disclosing the property was purchased from the Estate of Mary Ann Adams and the parties to the transaction were not related. The appellant submitted a copy of the Real Estate Contract, Closing Statement, the Multiple Listing

Service (MLS) listing sheet for the subject property,¹ a copy of the Listing & Property History Report² and a copy of the PTAX-203, Illinois Real Estate Transfer Declaration. The appellant also disclosed that the subject property had a "sign in yard." 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 \$93,628. The subject's assessment reflects a market value of \$281,673 or \$140.84 per square foot of living area, land included, when using the 2013 three year average median level of assessment for Lake County of 33.24% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum from Martin P. Paulson, Clerk of the Lake County Board of Review, along with additional data. Paulson asserted that that the subject was "non-owner occupied," an estate sale, and sold without benefit of advertisement (no market exposure or recent realtor multiple listing service activity). Therefore, Paulson on behalf of the board of review does not believe that the appellant's evidence supports a reduction in the subject's January 1, 2013 assessment.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales located in the same neighborhood and within .35 of a mile of the subject property. The comparables are improved with two-story single family dwellings of frame exterior construction and were built from 1895 to 1920 with effective ages of 1946 and 1947. Each comparable has central air conditioning and a garage ranging in size from 440 to 572 square feet of building area. One comparable has a fireplace. Each comparable has a basement with one comparable having finished area. The dwellings range in size from 1,676 to 1,907 square feet of living area and have sites that contain 7,500 or 7,974 square feet of land area. The comparables sold from August 2012 to November 2013 for prices ranging from \$290,000 to \$395,000 or from \$152.07 to \$226.10 per square foot of living area, land included.

In written rebuttal, the appellant asserted that if the board of review's comparables are to be considered then the Property Tax Appeal Board take into account the appropriate adjustments to the superior qualities of the comparables when compared to the subject property. The board of review's comparable #1 was rehabbed in 2012, including a new bathroom and has central air conditioning. Board of review's comparable #2 has a fireplace, central air conditioning and superior features such as: crown molding, nine-foot ceilings, arched entryways, etc. Board of review comparable #3 was remodeled in 2001, has three bathrooms and central air conditioning.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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

¹ The Multiple Listing Service sheet disclosed that the subject property was "off the market" on February 7, 2012.

² The Listing and Property History Report indicates that the subject property was first listed on July 26, 2006 for a price of \$385,000.

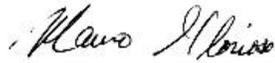
course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. 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).

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 December 2012, for a price of \$150,000. The appellant provided evidence demonstrating the sale had key 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 had been advertised on the open market with a sign in the yard and it had previously been listed with a realtor "on and off the market" since July 2006 for a price beginning at \$385,000. In further support of the transaction the appellant submitted a copy of the Real Estate Contract and Closing Statement. The Property Tax Appeal Board further finds the purchase price of \$150,000 is less than the subject's estimated market value as reflected by its assessment of \$281,673.

The board of review submitted information on three comparable sales of two-story dwellings. The Property Tax Appeal Board finds the sales presented by the board of review do not refute the appellant's evidence that the subject property sold after being exposed on the open market since July 2006 in a transaction involving parties that were not related. Based on this record the Board finds the purchase price in December 2012 is the best indication of market value as of January 1, 2013, and 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.



Chairman



Member



Member



Member



Acting 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:

August 19, 2016



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 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 the subsequent year 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.

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.