



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

APPELLANT: David Massoth
DOCKET NO.: 10-01267.001-R-1
PARCEL NO.: 03-29-130-011

The parties of record before the Property Tax Appeal Board are David Massoth, the appellant; and the Kendall County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$19,721
IMPR.: \$86,566
TOTAL: \$106,287

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kendall County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 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 frame and masonry construction with 3,038 square feet of living area. The dwelling was constructed approximately in 2004. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a three-car garage. The property

has a 9,880 square foot site and is located in Oswego, Oswego Township, Kendall County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation and assessment inequity as the bases of the appeal. In support of these arguments the appellant submitted information on five suggested comparables along with a report of 16 sales with limited information.¹ The five comparables are located in same subdivision as the subject property. The comparables were improved with two-story dwellings that ranged in size from 2,607 to 3,200 square feet of living area. The dwellings were of masonry and frame exterior construction. The comparables have full basements, with three having finished area, central air conditioning, one or two fireplaces and three-car garages. The sales occurred from June 2008 to February 2010 for prices ranging from \$270,000 to \$356,000 or from \$84.38 to \$114.02 per square foot of living area, including land.

Four of these comparables had improvement assessments ranging from \$82,760 to \$101,037 or from \$29.99 to \$32.36 per square foot of living area.

Based on this evidence, the appellant requested total assessed valuation of \$100,000 or a market value of \$300,000 or \$98.75 per square foot of living area, including land. This would reflect an improvement assessment of \$80,279 or \$26.43 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$124,328. The subject's assessment reflects a market value of \$373,133 or \$122.82 per square foot of living area, land included, when using the 2010 three year average median level of assessment for Kendall County of 33.32% as determined by the Illinois Department of Revenue. The subject property has an improvement assessment of \$104,607 or \$34.43 per square foot of living area.

Appearing for the board of review was Assistant State's Attorney, David Berault and the Clerk of the Board of Review, Andy Nicoletti.

¹ The information listed for the 16 additional sales were dwelling size, basement size and garage size. Also included was land, building and total assessment but no indication for what year.

Berault called Nicoletti as a witness. He testified that the board of review improved comparable sales is located in the same subdivision, approximately one block to one-half mile from the subject property. In support of its contention of the correct assessment the board of review submitted both sales and equity information on four comparables. These comparables are improved with two-story dwellings that ranged in size from 2,476 to 3,038 square feet of living area. The dwellings were of masonry and frame exterior construction. The comparables have full unfinished basements, central air conditioning, one fireplace and three-car garages. The sales occurred from September 2009 to May 2010 for prices ranging from \$290,000 to \$350,000 or from \$103.69 to \$117.12 per square foot of living area, including land.

These comparables had improvement assessments ranging from \$85,336 to \$101,302 or from \$32.45 to \$34.47 per square foot of living area.

Under cross-examination, Nicoletti testified that the appellant's comparable #3 and the board of review comparables #1 and #3 are most comparable to the subject property based on size. Nicoletti testified that the appellant's market value was based on other factors such as a walk out basement and having a finished basement.

As rebuttal, the appellant testified that Nicoletti had incorrect information about the finished basement of the subject. He testified that a building permit was taken out to finish the basement, but the basement was never finished and the permit lapsed.

Conclusion of Law

The appellant initially 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 on grounds of overvaluation.

The Board finds the best evidence of market value to be the board of review comparable sales #1, #3 and #4. These most

similar comparables sold for prices ranging from \$313,000 to \$350,000 or from \$103.69 to \$115.28 per square foot of living area, including land. The subject's assessment reflects a market value of \$373,133 or \$122.82 per square foot of living area, including land, which is above the range established by the best comparable sales in this record both in terms of overall value and on a per-square-foot basis. Based on this evidence the Board finds a reduction in the subject's assessment is justified.

The Board gave less weight to the remaining comparables due to differences from the subject for such factors as size, condition and finished basements, unlike the subject. Additionally, two of the comparable sales occurred in 2008, which is more remote in time and thus less indicative of fair market value as of the subject's January 1, 2010 assessment date. The Board gave no weight to the sales report submitted by the appellant. The report contains limited data such as only dwelling size, basement size and garage size. There is no style, exterior construction or other pertinent characteristics information for a complete analysis of these properties to the subject.

The appellant also contended unequal treatment in the subject's assessment as a basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data and considering the reduction in assessment for overvaluation, the Board finds that the subject property is equitably assessed and no further reduction in the subject's assessment 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.



Chairman



Member



Member



Member



Member

DISSENTING:

C E R T I F I C A T I O N

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: May 21, 2014



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.