



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

APPELLANT: James & Bonnie McCulla
DOCKET NO.: 10-01726.001-R-1
PARCEL NO.: 02-05-128-018

The parties of record before the Property Tax Appeal Board are James and Bonnie McCulla, the appellants, by attorney Laura Godek of Laura Moore Godek, PC, McHenry, Illinois; and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$26,759
IMPR.: \$43,297
TOTAL: \$70,056**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story dwelling of brick and vinyl exterior construction containing 1,784 square feet of living area. The dwelling was constructed in 1999. Features of the home include a slab foundation, central air conditioning, one fireplace and a two-car attached garage with 533 square feet of building area. The property has a 9,859 square foot site and is located in Huntley, Rutland Township, Kane County.

The appellants contend overvaluation based on a recent sale. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on September 23, 2009 for a price of \$210,000. The appellants 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 and it had been on the market for approximately 13 months. In further support of the transaction the appellants submitted a copy of the listing, a copy of the sales contract, a copy of the settlement statement and a copy of the Illinois Real Property Transfer Declaration (PTAX-203). The appellants also submitted a copy of a Listing & Property History Report disclosing that the property had been originally listed in August 2008 for a price of \$285,900 and the price had been

reduced to a listing price in June 2009 of \$225,000. 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" wherein the subject's total assessment of \$94,180 was disclosed. The subject's assessment reflects a market value of \$282,314 or \$158.25 per square foot of living area, including land, when applying the 2010 three year average median level of assessment for Kane County of 33.36% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales improved with one-story dwellings of vinyl exterior construction that ranged in size from 1,784 to 1,862 square feet of living area. The dwellings were constructed in 1999 and 2000. Each is located in the same subdivision as the subject property. One comparable has a basement, each comparable has central air conditioning, one comparable has a fireplace and each has a garage ranging in size from 524 to 562 square feet of building area. The comparables have sites ranging in size from .22 to .32 acres. The comparables sold from July 2007 to August 2009 for prices ranging from \$269,600 to \$345,000 or from \$144.74 to \$194.04 per square foot of living area, including land. Based on this evidence, the board of review requested the subject's assessment be reduced to \$85,658.

In rebuttal the appellant rejected the proposed revised assessment, asserted the sale of the subject property was an arm's length transaction and further commented on the comparable sales presented by the board of review.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellants contend 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 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); 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 Board finds the best evidence of market value to be the purchase of the subject property in September 2009 for a price of \$210,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The Board finds the purchase price is below the market value reflected by the assessment. The Board finds the board of review did not present any evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value. Based on this record the Board finds the subject property had a market value of \$210,000 as of January 1, 2010. Since market value has been determined the 2010 three year average median level of assessment for Kane County of 33.36% shall apply. (See 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.



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: September 20, 2013



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.