



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

APPELLANT: Thomas Piemonte
DOCKET NO.: 10-01808.001-R-1
PARCEL NO.: 03-05-176-026

The parties of record before the Property Tax Appeal Board are Thomas Piemonte, the appellant, 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: \$19,171
IMPR.: \$60,893
TOTAL: \$80,064**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame construction containing 2,261 square feet of living area. The dwelling was constructed in 1993. Features of the home included a finished basement, central air conditioning and a two-car attached garage with 460 square feet of building area. The property has a 10,890 square foot site and is located in Algonquin, Dundee Township, Kane County.

The appellant contends overvaluation based on a recent sale and comparable sales. In support of this argument the appellant submitted evidence disclosing the subject property was purchased in 2009 for a price of \$240,000. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the date of purchase was April 19, 2009, 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 153 days. In further support of the transaction the appellant submitted a copy of the settlement statement dated June 15, 2009 disclosing a price of \$240,000, a copy of the sales contract and a copy of page 1 of 4 of the Illinois Real Property Transfer Declaration (PTAX-203) recorded June 18, 2009, indicating the property sold for a price of \$240,000.

The appellant also submitted information on eleven comparable sales described as two-story dwellings that ranged in size from 2,200 to 2,810 square feet of living area. The dwellings ranged in age from 10 to 17 years old. Each comparable was located in the same subdivision as the subject property. Each comparable had a basement with eight having finished living area, each comparable had central air conditioning, nine comparables had one or two fireplaces and each comparable had either a 2 car, 2.5 car or a 3 car garage. The comparables had sites ranging in size from 10,125 to 13,504 square feet of land area. The comparables sold from February 2009 to November 2010 for prices ranging from \$207,500 to \$290,000 or from \$86.42 to \$117.80 per square foot of living area, including land. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$66,245.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$89,991 was disclosed. The subject's assessment reflects a market value of \$269,757 or \$119.31 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 a grid analysis of the appellant's sales prepared by the township assessor and information on three additional comparable sales identified by the township assessor. The additional comparables were improved with two-story dwellings that each had 2,377 square feet of living area. The dwellings were constructed from 1995 to 1999. Each was located in the same subdivision as the subject property. Each comparable had a basement with one being finished, each had central air conditioning, each had a fireplace, one comparable had a swimming pool and each had a garage with either 440 or 660 square feet of building area. The comparables had sites with either 10,890 or 13,504 square feet of land area. The comparables sold in February 2010 and July 2010 for prices ranging from \$266,000 to \$280,000 or from \$111.91 to \$117.80 per square foot of living area, including land. The board of review also submitted a copy of the subject's property record card that indicated the subject property sold for a price of \$240,000 in June 2009.

The assessor also made comments with respect to the appellant's comparable sales.

Based on this evidence, the board of review indicated it was willing to stipulate to a revised total assessment of \$85,102.

In rebuttal the appellant rejected the board of review proposed revised assessment and asserted the sale of the subject property was an arm's length transaction, which was the best evidence of market value. The appellants' counsel also made rebuttal comments regarding the board of review three comparable sales.

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 a reduction in the subject's assessment is supported by the evidence in the record.

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 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 so to do. 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 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 June 2009 for a price of \$240,000 or \$116.15 per square foot of living area, including land. The appellant 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. The Board finds the subject property had a price within the range established by all the comparables submitted by the parties further supporting the conclusion the sale price was indicative of fair cash value. Based on this record the Board finds the subject property had a market value of \$240,000 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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

Allen Castrovillari

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.