



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

APPELLANT: Jennifer & William Albert
DOCKET NO.: 10-01819.001-R-1
PARCEL NO.: 02-07-353-061

The parties of record before the Property Tax Appeal Board are Jennifer and William Albert, the appellant, by attorney Laura Godek of Laura Moore Godek, PC, McHenry; 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: \$12,381
IMPR.: \$14,974
TOTAL: \$27,355**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling that is one-half of a duplex of frame construction containing approximately 1,689 square feet of living area. The dwelling was constructed in 2007. Features of the home include a slab foundation, central air conditioning and a one-car attached garage. The property has a 3,950 square foot site and is located in Hampshire, Rutland Township, Kane County.

The appellants appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased in June 2010 for a price of \$82,000. 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 the property had been on the market for 76 days. The appellants indicated the property was purchased from the Federal National Mortgage Association and was purchased as a foreclosure. The appellants further indicated the property was occupied on November 1, 2010. In further support of the transaction the appellants submitted a copy of the multiple listing sheet which stated that "due to condition must sell with cash or rehab loan." The listing agreement and Listing & Property History Report submitted by the appellants indicated the property was listed on

April 6, 2010, the contract was entered on May 6, 2010 and the closing was on June 23, 2010. The appellants also submitted a copy of the sales contract indicated the property was purchased "as is." A copy of the Illinois Real Estate Transfer Declaration (PTAX-203) disclosed the subject was purchased for \$82,000, the buyer/seller was a financial institution or government agency and the property was not advertised for sale. The settlement statement submitted by the appellants also indicated the subject property sold for a price of \$82,000 and a sales commission in the amount of \$4,510 was paid by the seller.

In further support of their claim the appellants submitted an appraiser estimating the subject property had a market value of \$127,000 as October 29, 2010. The appraisal was prepared by Leonard D. Jacquard, a Certified Residential Real Estate Appraiser. The appraiser stated on Addendum Page 1 of 2 that, "The last recorded sale for the subject was 6/01/10 - \$82,000. purchased "as is" foreclosure property requiring extensive rehab."

The appellants also submitted information on seven comparable sales improved with two-story dwellings that each was ½ of a duplex that had either 1,370 or 1,386 square feet of living area. The dwellings ranged in age from 1 to 3 years old. Each had central air conditioning and a one-car garage. The properties were located within 1/10th of a mile from the subject property. These properties sold from February 2009 to May 2010 for prices ranging from \$116,000 to \$161,250 or from \$83.69 to \$116.34 per square foot of living area, including land.

Based on this evidence the appellants requested the subject's assessment be reduced to \$27,333.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$63,234 was disclosed. The subject's assessment reflects a market value of \$189,550 or \$112.23 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 the assessment the board of review submitted information on seven comparable sales improved with two-story dwellings that each was ½ of a duplex that had either 1,673 or 1,689 square feet of living area. The dwellings were constructed in 2007 or 2008. Each comparable has central air conditioning and a one-car garage. One comparable had a fireplace. The comparables sold from June 2007 to October 2011 for prices ranging from \$115,700 to \$205,760 or from \$68.50 to \$121.82 per square foot of living area, including land. Based on this evidence, the board of review indicated that it was willing to stipulate to a revised assessment of \$51,662.

In rebuttal the appellants asserted that the board of review comparable sales sold in 2007, 2008 and 2011, which are not as

proximate in time to the January 1, 2010 assessment date as was the sale of the subject property. The appellants also asserted that sale #6, which sold in October 2011, for a price of \$115,700 or \$68.50 per square foot of living area, including land, supports a reduction in the subject's assessment.

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 warranted.

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). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

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 June, 2010 for a price of \$82,000. 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 that based on comments on the listing and in the appraisal submitted by the appellants indicating the subject dwelling has some issues with respect to its condition at the time of sale undoubtedly had some influence on the purchase price. 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 also finds the comparable sales submitted by the board of review were not as proximate in time to the assessment date at issue as was the sale of the subject property. Based on this record the Board finds the subject property had a market value of \$82,000 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. (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: October 18, 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.