



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

APPELLANT: Kent Holt
DOCKET NO.: 10-02049.001-R-1
PARCEL NO.: 15-28-431-004

The parties of record before the Property Tax Appeal Board are Kent Holt, the appellant, by attorney Ronald M. Justin, of RMR Property Tax Solutions, in Hawthorn Woods, 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: \$5,591
IMPR.: \$11,006
TOTAL: \$16,597

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property¹ is improved with a 1.5-story single-family dwelling of frame construction. The dwelling is of unknown age and features a basement and detached garage. The property is located in Aurora, Aurora Township, Kane County.

The appellant appeared before the Property Tax Appeal Board through legal counsel contending the subject property was overvalued in light of its recent sale. In support of this market value argument, the appellant's counsel filed a brief citing various Illinois cases along with evidence disclosing the subject property was purchased on May 14, 2009 for a price of \$49,750. The appellant completed Section IV - Recent Sale Data

¹ Descriptive details of the subject property have been drawn from the Multiple Listing Sheet presented by the appellant. The appellant failed to complete Section III - Description of Property and the board of review failed to submit a copy of the subject's property record card. (86 Ill.Admin.Code §1910.40(a)).

of the appeal petition disclosing the parties to the transaction were not related and the property was sold using a Realtor firm of State Wide B & R Real Estate with agent Robert Rusin. Furthermore, the property had been advertised on the open market with the Multiple Listing Service for 117 days prior to its sale.

No witness was presented by the appellant to testify as to the purchase process, negotiations and/or the condition of the subject property at the time of purchase.

In further support of the transaction, the appellant submitted a copy of the Multiple Listing Service sheet which depicted an original asking price of \$79,000 and a listing date of December 5, 2008 and a subsequent price reduction to \$52,500 prior to its sale.

Based on this evidence and applicable case law, 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" wherein the subject's total assessment of \$24,998 was disclosed. The subject's assessment reflects a market value of \$74,934, 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. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review representative Michael Madziarek noted as set forth in the listing sheet that the subject property was a "court lender approval so there was some sort of motivation to move the property off of their books." Also, the listing indicated the property was sold in "as is" condition with no warranties, repairs or inspections to be provided by the seller. "So we believe that it is a problematic market transaction." In this regard he further contended that sale price does not necessarily mean it is market value. There is other information that is required to determine if that is the case or not.

In support of the subject's estimated market value as reflected by its assessment, the board of review submitted a printout depicting that in November 2009 a mortgage in the amount of \$73,500 was issued concerning the subject property.

The board of review did not specifically address nor challenge the subject's sale price.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

After hearing the testimony and considering the record, 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 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 to do 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 Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property on May 14, 2009 for a price of \$49,750. The appellant provided evidence demonstrating the sale had the elements of an arm's-length transaction. The subject was advertised for sale and the buyer and seller were not related parties.

As argued by the board of review, the Illinois courts have stated that the sale price of property does not necessarily establish its value without further information on the relationship of the buyer and seller and other circumstances. Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 552 (4th Dist. 1988). As set forth in this record, the board of review failed to adequately rebut the apparent arm's-length nature of the sale transaction in that the only evidence of record is that the buyer and seller were not related, the property was open and exposed on the market for a period of time and sold for \$49,750, seven months before the assessment date at issue of January 1, 2010.

Additionally, the Board finds the purchase price of \$49,750 is below the market value reflected by the assessment of \$74,934. Moreover, the original listing price of \$79,000 for the subject property at the time of marketing in December 2008 was also less than the estimated market value as reflected by its 2010 assessment. Furthermore, the Property Tax Appeal Board finds the board of review did not present any substantive 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 existence of a mortgage involving the subject property for \$73,500 in November 2009 is not substantive evidence of the subject's estimated market value without further information.

Based on this record, the Board finds the appellant demonstrated by a preponderance of the evidence that the subject property was overvalued. The best evidence in the record is that the subject property had a market value of \$49,750 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy 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: January 24, 2014

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.