



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

APPELLANT: Mary Legler
DOCKET NO.: 11-01563.001-R-1
PARCEL NO.: 05-26-427-005

The parties of record before the Property Tax Appeal Board are Mary Legler, the appellant, by attorney Laura Godek of Laura Moore Godek, PC, in 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: \$39,995
IMPR.: \$6,310
TOTAL: \$46,305

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 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 one-story single-family dwelling of brick construction with 1,228 square feet of living area. The dwelling was constructed in 1959. Features of the home include a full finished basement, a fireplace and an

attached 588 square foot garage. The property has a .96-acre site and is located in Elgin, Plato Township, Kane County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on January 22, 2010 for a price of \$139,346. As additional information, the appellant also submitted data that the subject's 2012 assessment was reduced to \$54,998. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$46,444 so as to reflect the purchase price at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$71,660. The subject's assessment reflects a market value of \$215,649 or \$175.61 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Kane County of 33.23% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted a two-page letter from Janet M.W. Roush, Plato Township Assessor, along with information on three comparable sales that occurred between January 2008 and July 2010 for prices ranging from \$235,000 to \$313,000 or from \$171.28 to \$236.03 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant noted board of review sales #2 and #3 occurred less proximate in time to the assessment date of January 1, 2011 than the sale of the subject. Additionally, she noted that comparable #1 was not advertised for sale (Exhibit 1) and is 2.2 miles from the subject property; comparable #2 which is 3-miles from the subject consists of 2.75-acres of land area with a sale that included a second parcel (Exhibits 2, 3 & 4); and comparable #3 located 10.9-miles from the subject also was not advertised for sale and was sold between related parties (Exhibit 5).

Conclusion of Law

The appellant 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.

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 Illinois Supreme Court 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). In light of the foregoing statutory and case law edicts, the township assessor's articulation in her letter of the mass appraisal methodology utilized in determining the 2011 assessment for the subject property and the distribution of the burden of taxation are irrelevant considerations for this market value-based assessment appeal before the Property Tax Appeal Board.

The Board finds the best evidence of market value to be the purchase of the subject property in January, 2010 for a price of \$139,346. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant 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. The subject had a listing history which began in October 2006 until August 2007, was re-listed in February 2009 until July 2009 and then was listed again in December 2009 for \$144,787 before it sold to the appellant in January 2010. In further support of the transaction the appellant submitted a copy of the sales contract depicting a purchase price of \$140,000 and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration depicting full actual consideration of \$139,346 and that the property was advertised prior to its sale.

The Board finds the purchase price of \$139,346 is below the market value reflected by the assessment of \$215,649. The Board finds the board of review did not present any evidence to challenge the arm's length nature of the transaction. The

letter from Roush stated in pertinent part, "This home was originally listed in October 2006 and sold in 2010. Is that a reasonable amount of time?" The board of review presented no substantive evidence to refute the contention that the purchase price was reflective of market value. The Board has given no weight to board of review sales #2 and #3 as these sales occurred in 2008 and 2009 which dates are least proximate in time to the assessment date and thus less indicative of the subject's estimated market value as of January 1, 2011. Furthermore, the Board has given little weight to board of review comparable sale #1 as this home was substantially newer than the subject, was not advertised prior to its sale and is located 2.2-miles from the subject property.

Based on this record the Board finds the subject property had a market value of \$139,346 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for Kane County of 33.23% 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: May 21, 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.