



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

APPELLANT: Michael & Marilyn Gallagher
DOCKET NO.: 11-01947.001-R-1
PARCEL NO.: 03-16-203-003

The parties of record before the Property Tax Appeal Board are Michael & Marilyn Gallagher, the appellants, 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: \$39,687
IMPR: \$130,945
TOTAL: \$170,632

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 two-story dwelling of frame construction with approximately 3,832 square feet of living area. The dwelling was constructed in 2003. Features of the home include a full walkout-style basement which is 90% finished, central air conditioning, two fireplaces, a three-car

garage and an in-ground swimming pool. The property has a 27,878 square foot site and is located in Carpentersville, Dundee Township, Kane County.

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants submitted an appraisal estimating the subject property had a market value of \$535,000 as of January 1, 2010. Additionally, the appellants provided descriptions and sales data in the Section V grid analysis of the appeal petition on 20 comparable sales.

Based on this evidence, the appellants requested a total assessment that reflects a market value of \$315,329 when applying 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 \$197,773. The subject's assessment reflects a market value of \$595,164 or \$155.31 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.

The board of review submitted a memorandum from the Dundee Township Assessor's Office which noted that twelve of the appellants' comparable sales were "track" housing and not good comparisons to the subject custom home. Four of the suggested sales are not located in Dundee Township and several of the comparable sales are older and smaller than the subject dwelling; some of the comparables have smaller basements and lack any basement finish. Finally, none of the comparable sales have an in-ground swimming pool like the subject.

As to the appellants' appraisal report, the township assessor noted three of the five sales analyzed were not located in Dundee Township. Additionally, the appraiser made gross adjustments of more than 25% for three of the comparables indicating that these were not suitable comparable properties when compared to the subject.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on four comparable sales. Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In rebuttal, counsel for the appellants contends that the sales presented by the board of review support the issuance of a reduction in the subject's assessment. Additionally, the comparables suggested by the board of review are superior to the subject property in view/location when compared to the subject as described in the applicable Multiple Listing Service data sheets (Exhibits 1 through 6).

Additionally, the appellants' counsel argued that the amenities and upgrades outlined in the Multiple Listing Service data sheets for the appellants' comparable sales "do not appear to be inferior to those of the subject." Similarly, there is a dispute between the assessor's records and the applicable listing sheet concerning basement finish for appellant's comparable #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.

The Property Tax Appeal Board has given little weight to the appellants' appraisal of the subject property with an opinion of value as of January 1, 2010 as the basis for the opinion was drawn from analysis of comparable sales that occurred between May and November 2009, dates most distant from the valuation date at issue of January 1, 2011 and thus, less likely to be indicative of the subject's market value as of the date at issue.

The Board finds the best evidence of market value to be the appellants' comparable sale #19 and board of review comparable sales #2 and #4. These three comparables sold between January and October 2012 for prices ranging from \$110.48 to \$136.07 per square foot of living area, including land. Each of these comparables has some similarities and differences from the subject property, but each has an in-ground swimming pool. The subject's assessment reflects a market value of \$595,164 or \$155.31 per square foot of living area, including land, is above the range established by the best comparable sales in the record

on a per-square-foot basis. Based on this evidence the Board finds a reduction in the subject's assessment is justified.

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. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mark A. Lewis

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 19, 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.