FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Lowell & Nancy Naber (as Trustees)
DOCKET NO.: 11-02171.001-R-1
PARCEL NO.: 03-27-151-025

The parties of record before the Property Tax Appeal Board are Lowell and Nancy Naber (as Trustees), the appellants, by attorney Michael Elliott of Elliott & Associates, P.C. in Des Plaines; 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:	$25,640
IMPR.:	$27,693
TOTAL:	$53,333

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a split-level style single family dwelling of frame and brick construction containing 1,912 square feet of living area. The dwelling was constructed in 1961. Features of the home include a partial finished lowered level, central air conditioning, one fireplace and a two-car attached garage. The property has a site with approximately 16,000 square feet of land area and is located in Sleepy Hollow, Dundee Township, Kane County.

The appellants are challenging the assessment for the 2011 tax year on the basis of overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on August 30, 2011 for a price of $140,000. 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 it had been on the market for two months. In further support of the transaction the appellants

submitted a copy of the settlement statement disclosing the purchase price of $140,000 and a copy of the listing of the subject property. The listing indicated the property was listed in June 2011, the initial asking price was $159,900 and further reported the subject property needed some cosmetic updates of paint and floor coverings.

As further support of the overvaluation argument the appellants submitted a copy of an appraisal of the subject property estimating the property had a market value of $160,000 as of December 14, 2010. In estimating the market value the appraiser developed the sales comparison approach using three comparable sales composed of one split-level style home and two ranch style homes. The comparables ranged in size from 1,050 to 1,250 square feet of living area and ranged in age from 53 to 120 years old. One comparable had a finished lower level and two had unfinished lower levels; one comparable had central air conditioning and each had a one or two-car garage. The comparables were located in West Dundee within approximately 1 mile of the subject property. The sales occurred from January 2010 to October 2010 for prices ranging from $130,000 to $170,000 or from $122.18 to $138.95 per square foot of living area, including land. After making adjustments to the comparables for differences from the subject property the appraiser estimated the comparables had adjusted prices ranging from $153,370 to $174,690 and the subject property had an estimated market value of $160,000.

Based on this evidence the appellants requested the subject's assessment be reduced to $53,333.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $66,913 was disclosed. The subject's assessment reflects a market value of $201,363 or $105.32 per square foot of living area, including land, when applying the 2011 three year average median level of assessments for Kane County of 33.23% as determined by the Illinois Department of Revenue.

In rebuttal the board of review submitted a statement from the Dundee Township Assessor's Office asserting the comparable sales contained in the appraisal were foreclosure/bank sales, comparable sales #2 and #3 were one-story homes each of which is approximately 900 square feet smaller than the subject dwelling and questioned the adjustments made by the appraiser to comparable sale #1.

In support of the assessment the board of review submitted information on three comparable sales improved with split-level style single family dwellings of frame construction that had either 1,868 or 2,396 size square feet of living area. The dwellings were constructed from 1958 to 1962. The comparables were located in Sleepy Hollow or Dundee Highlands within 1.1 miles of the subject property. Two of the comparables have central air conditioning, one comparable has a fireplace and two comparables have a two-car garage. The comparables have sites ranging in size from 7,680 to 22,651 square feet of land area. The comparables sold from April 2009 to April 2010 for prices ranging from $190,000 to $259,000 or from $101.71 to $123.13 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of 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 the evidence in the record supports a reduction in the subject's assessment.

The appellants contend 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. 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.

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).

The Board finds the evidence in this record disclosed the subject property was purchased by the appellants in August 2011 for a price of $140,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. Furthermore, the appellants also provided a copy of the listing disclosing the property was placed on the market in June 2011 for an asking price of $159,900. The Board finds the both the list price and the purchase price are below the market value reflected by the subject's assessment. The appellants also submitted an appraisal estimating the subject property had a market value of $160,000 as of December 12, 2010. 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. Based on this record the Board finds a reduction in the subject's assessment commensurate with the appellants' request is appropriate.

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.

Chairman

Member

Member

Member

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: March 21, 2014

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.