FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Raj Khanna
DOCKET NO.: 11-02792.001-R-1
PARCEL NO.: 06-27-407-109

The parties of record before the Property Tax Appeal Board are Raj Khanna, the appellant, by attorney Joanne Elliott of Elliott & Associates, P.C., in Des Plaines, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$14,660
IMPR.:	$101,370
TOTAL:	$116,030

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage 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 single-family townhome with 2,682 square feet of living area. The townhome was constructed

in 1978.[1] The property is located in Oak Brook, York Township, DuPage 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 May 18, 2011 for a price of $350,000. The appellant signed the closing documents as the principal of RK Management Consultants, Inc., the entity which he chose to hold title to the property. The property was listed on the Multiple Listing Service for over 71 days before it was sold including the payment of a commission to the broker. The subject was originally listed for $410,000 before being sold to the appellant. Based on this evidence, 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" disclosing the total assessment for the subject of $146,550. The subject's assessment reflects a market value of $442,081 or $164.83 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

The board of review presented a memorandum that "outlines a history of the subject property transfers, beginning in July, 2004 to March, 2013, showing that these were not 'arm's-length' transactions but sales and/or transfers under duress or to/from related parties." More specifically, in October 2010, the property was transferred to Wells Fargo Bank via Sheriff's Deed and in May 2011 the subject was transferred from Wells Fargo Bank to RK Mgt Consultants (a corporation) for $350,000. The copy of the PTAX-203 Illinois Real Estate Transfer Declaration indicates that while the property was a Bank REO, it was also advertised prior to its sale.

Additionally, a copy of a permit taken out in September 2011 following the sale of the subject has been included. The permit was for "residential alteration" for a value of $60,000. "Note how the final sale price, along with the estimated value of the permit, tie into the original listing at $410,000." The memorandum also noted that the listing of the subject indicated the property was "sold as is" and "needs TLC."

[1] The board of review failed to provide a copy of the subject's property record card as required by the Board's rules (86 Ill.Admin.Code §1910.40(a)) and neither party to this proceeding described the subject townhome in any great detail.

The memorandum concludes that the last sale was from a bank as a bank REO, as a cash deal, in "as-is" condition and argued that the sale price may represent an outstanding mortgage balance on the property due to foreclosure. Finally the property in April 2013 transferred from the corporation to the appellant with no monies changing hands.

Finally, to support the subject's assessment, the board of review included information of comparable sales in the neighborhood to show "that the purchase price of the subject property is not typical for the area." According to the board of review, regardless of style and size, between 2008 and 2011 the median sale price in the subject's neighborhood was $660,000. The sales ratio report depicts the subject's sale price at the lowest point and the highest sale having been for $1,052,500 that occurred in July 2008. Furthermore, in support of its contention of the correct assessment, the board of review submitted information on seven comparables within ±150 square feet of the subject property reflecting a median sale price of $441,250 or $163.52 per square foot of living area, including land. These sales, including that of the subject, range from $350,000 to $788,500 and sold between April 2009 and September 2012. Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

In rebuttal, counsel for the appellant asserted the board of review's sales data consists of raw/unconfirmed sales with no documentary evidence to confirm the data and/or lack characteristic details of the comparables other than dwelling size and year built. Given the two sales ratio reports presented by the board of review, the appellant's counsel addressed 19 listed properties, several of which appear on both lists. The notations as to the individual properties include a mortgage for only from 54.5% to 66.6% of the purchase price rather than the standard 80% of sales price for three of the comparables; six of the properties were cash transactions and time on the market ranged from 2 to 52 days; three properties were on the market for only 8 to 23 days; and six of the properties were not listed for sale on the market. As to the property located at 161 Briarwood N, the appellant noted the property was on the market for sale for 435 days and eventually sold on February 22, 2012 for $427,000 or $156.64 per square foot, which is below the subject's estimated market value as reflected by its assessment. Given the circumstances concerning this sale, appellant contends this comparable presents a good indication of the subject's fair market value.

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 Board finds some of the factual assertions regarding transfers of the subject property and mortgages pre-dating 2010 presented by the board of review are too remote in time to relevant considerations in the subject's estimated market value as of the assessment date of January 1, 2011. Moreover, as to the additional inferences that a bank foreclosure is inappropriate evidence to determine value, the Board takes judicial notice that Public Act 96-1083 amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

> Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

Section 16-183 provides:

> Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

The Board finds the effective date of these statutes is applicable to assessment date at issue, January 1, 2011. Moreover, the Board finds these statutes are instructive as to

the appellant's 2011 assessment of the subject property and May 2011 purchase price after foreclosure.

The Board finds the best evidence of market value to be the purchase of the subject property in May, 2011 for a price of $350,000. 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 and it had been on the market for two months. In further support of the transaction the appellant submitted a copy of the sales contract and the settlement statement with the board of review submitting a copy of the PTAX-203 Illinois Real Estate Transfer Declaration. The Board finds the purchase price of $350,000 is below the market value reflected by the assessment of $442,081. The Board finds that the board of review's efforts to challenge the arm's length nature of the transaction failed in light of recent statutory changes to the Property Tax Code and furthermore failed to refute the contention that the purchase price was reflective of market value at the time of the sale transaction.

Based on this record the Board finds the subject property had a market value of $350,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for DuPage County of 33.15% 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.

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: August 22, 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.