



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

APPELLANT: Anthony Holoska
DOCKET NO.: 12-01082.001-R-1
PARCEL NO.: 06-14-383-008

The parties of record before the Property Tax Appeal Board are Anthony Holoska, 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: \$5,505
IMPR.: \$4,000
TOTAL: \$9,505

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 2012 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 with finished attic single family dwelling of frame construction with 1,561 square feet of living area. The dwelling was constructed in 1900. Features of the home include a partial basement, one fireplace and a 495 square foot attached garage. The property has a 6,311 square foot site and is located in Elgin, Elgin 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 November 15, 2011 for a price of \$28,500. 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 \$37,245. The subject's assessment reflects a market value of \$111,679 or \$71.54 per square foot of living area, land included, when using the 2012 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted a statement from the township assessor asserting the subject's sale was a foreclosure. The board of review also submitted information on five comparable sales identified by the township assessor. The comparables were improved with one-story with finished attic or a part one-story and part 1.5-story dwellings that ranged in size from 1,337 to 1,559 square feet of living area. The dwellings were constructed from 1925 to 1952. Four comparables each had a fireplace, three comparables had a finished basement and each comparable had a garage that ranged in size from 240 to 600 square feet of building area. The sales occurred from April 2010 to October 2011 for prices ranging from \$145,000 to \$187,500 or from \$95.73 to \$120.27 per square foot of living area, including land. Based on these sales the board of review was willing to stipulate to a revised assessment of \$23,331.

The appellant rejected the proposed stipulation. The appellant's counsel asserted the subject's sale was an arm's length transaction. Counsel also argued that board of review sales #1, #2, #4 and #5 sold in 2010, less proximate in time to the assessment date than the sale of the subject property. Counsel also made rebuttal comments regarding the board of review comparable sales.

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 the best evidence of market value to be the purchase of the subject property in November 2011 for a price of \$28,500. The appellant provided documentation disclosing that the subject property was purchased after being exposed on the open market and evidence demonstrating the sale had 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 and the property had been advertised on the open with the Multiple Listing Service (MLS). The appellant provided a copy of the listing indicated the subject was in need of "a little TLC" and further revealed the property was REO/Lender Owned, Pre-foreclosure. The appellant also provided a Listing & Property History Report indicating the subject was originally listed for sale in July 2011 for a price of \$34,900. The listing was cancelled on August 2, 2011 and the property was relisted on August 24, 2011 for a price of \$29,900. The appellant also provided a copy of the settlement statement verifying the purchase price of \$28,500. Also submitted was a copy of a real estate sales contract quoting a purchase price of \$32,500 and an Addendum to Contract dated November 7, 2011 reducing the price to \$28,500 for stolen and damaged items. The appellant also submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration associated with the sale. The transfer declaration was not marked in response to the question as to whether the property was advertised for sale or sold using a real estate agent. The Board finds the purchase price is below the market value reflected by the assessment.

The Board finds the board of review did not present any evidence to challenge that the subject property was exposed on the market or that the parties were not related. The board of review submitted a statement from the township assessor that the subject sold out of foreclosure. Section 1-23 of the Code defines compulsory sale as:

"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. 35 ILCS 200/1-23.

Section 16-183 of the Code provides that the Property Tax Appeal Board is to consider compulsory sales in determining the correct assessment of a property under appeal stating:

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. 35 ILCS 200/16-183.

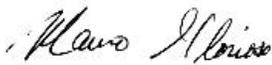
Based these statutes, the Property Tax Appeal Board finds it is appropriate to consider the sale of the subject property even though the transaction was a Bank REO sale or out of foreclosure. The Board gave less weight to the comparable sales provided by the board of review as they were superior to the subject in age and superior to the subject in features based on statements contained in the MLS listings submitted by the parties describing these properties. Based on this record the Board finds the subject property had a market value of \$28,500 as of January 1, 2012. Since market value has been determined the 2012 three year average median level of assessment for Kane County of 33.35% 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: May 22, 2015



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.