



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

APPELLANT: Maryann Vintika
DOCKET NO.: 12-01172.001-R-1
PARCEL NO.: 03-19-461-008

The parties of record before the Property Tax Appeal Board are Maryann Vintika, the appellant, by attorney Jerri K. Bush, in Chicago, and the DeKalb 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 **DeKalb** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$6,697
IMPR.: \$7,468
TOTAL: \$14,165

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DeKalb 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 two-story dwelling of frame construction with 1,680 square feet of living area. The dwelling was constructed in 1935. Features of the home include a full basement, central air conditioning and a two-car garage. The property has a 3,920 square foot site and is located in Genoa, Genoa Township, DeKalb 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 August 12, 2011 for a price of \$42,500. 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 \$25,000. The subject's assessment reflects a market value of \$75,008 or \$44.65 per square foot of living area, land included, when using the 2012 three year average median level of assessment for DeKalb County of 33.33% as determined by the Illinois Department of Revenue.

In rebuttal, the board of review submitted a letter from the Clerk of the Board of Review contending that the board of review "does not feel that the purchase price [of the subject property] was the true indication of value for this parcel."

In support of its contention of the correct assessment, the board of review submitted information on three comparable sales. The comparables consist of two-story frame dwellings, two of which were built in 1890 and 1902 and the third was described as "older." The homes range in size from 1,084 to 2,080 square feet of living area and feature full basements and central air conditioning. Two of the comparables have garages. These properties sold between May 2010 and August 2011 for prices ranging from \$78,000 to \$99,900 or from \$38.05 to \$74.72 per square foot of living area, including land.

Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant's counsel argued that case law supports the appellant's claim that the recent sale of the subject property is the best evidence of 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.

With regard to the nature of the subject's sale having been due to foreclosure, the Property Tax Appeal Board takes judicial notice of Public Act 96-1083 which 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, 2012. Moreover, the Board finds this language instructive with regard to the sale of the subject property in 2011 with respect to this 2012 assessment appeal of the subject property.

Furthermore, in counties with 200,000 or fewer inhabitants 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 so to do. 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).

The Board finds the best evidence of market value to be the purchase of the subject property in August, 2011 for a price of \$42,500. 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 with Ultimate Realty, Inc. and agent Adam Carlson, the property had been advertised on the open market through the Multiple Listing Service and it had been on the market for a month. In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the purchase price and displaying that brokers' commissions were paid. The appellant also provided a copy of the Multiple Listing Service data sheet related to the listing and sale of the subject which reflected an original listing date of May 4, 2011 with an asking price of \$46,900. The listing sheet also indicates the subject property was on the market for 48 days. The Property Tax Appeal Board finds the purchase price of \$42,500 is below the market value reflected by the assessment of \$75,008. The Board further finds the board of review did not present any evidence to challenge the arm's length nature of the sale transaction or to refute the contention that the purchase price was reflective of market value. Finally, the case law indicates that comparable sales data as provided by the board of review should be given less weight when there is a sale of the subject property that qualifies as an arm's length transaction. (See Springfield Marine Bank, *supra*).

In conclusion the Property Tax Appeal Board finds the best evidence of market value in the record is the sale of the subject property. Based on this record, the Property Tax Appeal Board finds the subject property had a market value of \$42,500 as of January 1, 2012. Since market value has been established the 2012 three year median level of assessments for DeKalb County of 33.33% shall apply.

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: January 23, 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.