



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

APPELLANT: John Thurlow
DOCKET NO.: 12-01315.001-R-1
PARCEL NO.: 12-02-202-001

The parties of record before the Property Tax Appeal Board are John Thurlow, 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: \$7,836
IMPR.: \$52,194
TOTAL: \$60,030

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 is improved with a two-story dwelling of frame construction with 1,848 square feet of living area. The dwelling was constructed in 1987. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and an attached garage with 378 square feet of building area. The property has a 6,588 square foot site and is located in Geneva, Geneva 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 June 28, 2011 for a price of \$180,000. The appellant completed Section IV - Recent Sale Data disclosing the parties to the transaction were not related, the property was sold through a Realtor and had been advertised for sale in the Multiple Listing Service (MLS) for 22 months. The appellant submitted a copy of the MLS listing sheet disclosing the property was originally listed on the market for a price of \$289,800 and had been on the market for 576 days. The appellant also provided a copy of the Listing and Property History Report disclosing the property was continuously listed from August 12, 2009 to the date of sale. The price of the property was reduced periodically starting at \$289,800 with subsequent prices of \$274,800, \$259,000, \$245,000, \$239,800, \$225,000, \$210,000, \$200,000, \$190,000 and \$180,000. Also provided by the appellant was a copy of the sales contract, the closing statement and the PTAX-203 Illinois Real Property Transfer Declaration. Based on this evidence, the appellant requested the subject's assessment be reduced to \$59,994.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$74,993. The subject's assessment reflects a market value of \$224,867 or \$121.68 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 Geneva Township Assessor, Denise D. LaCure, who questioned the arm's length nature of the sale. The assessor also provided information on three comparable sales improved with two-story dwellings that ranged in size from 1,870 to 2,256 square feet of living area. The comparables were constructed from 1989 to 1992. The comparables were located within .36 miles of the subject property and had similar features as the subject property. The sales occurred from June 2010 to August 2012 for prices ranging from \$208,000 to \$272,500 or from \$111.23 to \$122.36 per square foot of living area, including land.

The assessor also provided an equity analysis to demonstrate the subject was equitably assessed.

Based on this evidence the board of review requested the subject's assessment be increased to \$84,555, which would reflect a market value of \$253,538 using the 2012 three year average median level of assessment for Kane County of 33.35%.

In rebuttal appellant's counsel argued the sale of the subject was an "arm's length" transaction. Counsel asserted the property was advertised in the MLS from August 12, 2009 until it closed on June 29, 2011; the parties were not related; and the sale was not a foreclosure or a short sale.

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. 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 appellant met this burden of proof and a reduction in the subject's assessment is warranted.

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).

The Board finds the best evidence of market value to be the purchase of the subject property on June 28, 2011 for a price of \$180,000. 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 through the Multiple Listing Service and it had been on the market for 576 days. In further support of the transaction the appellant submitted a copy of the sales contract, a copy of the settlement statement disclosing commission fees of \$5,400 and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration which also indicated the property had been advertised for sale. The Board finds the purchase price is below the market value reflected by the assessment.

The Board finds although the assessor questioned the arm's length nature of the sale, the board of review did not present any evidence to truly challenge the arm's length nature of the transaction. The fact that the property was exposed on the market continuously for 576 days demonstrates to this Board that the purchase price was indicative of fair cash value.

The Board also finds that sales #1 and #2 provided by the board of review did not occur as proximate in time to the assessment date at issue as did the sale of the subject property. Additionally, the third sale provided by the board of review sold for \$208,000 or \$111.23 per square foot of living area, including land, which reflects a market value below the market value reflected by the subject's assessment. The Board gave no weight to the equity analysis submitted by the board of review as this evidence did not address the appellant's overvaluation argument.

Based on this record the Board finds a reduction in the subject's assessment 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

K. L. Fen

Member

DR

Member

Mark Albino

Member

Jerry White

Acting 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: June 26, 2015

A. Portol

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.