



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

APPELLANT: Barbara Borowski
DOCKET NO.: 12-01347.001-R-1
PARCEL NO.: 06-33-155-009

The parties of record before the Property Tax Appeal Board are Barbara Borowski, the appellant, by attorney Jerri K. Bush in Chicago, 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: \$9,898
IMPR.: \$26,120
TOTAL: \$36,018

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 two-story townhome of frame construction with 1,584 square feet of living area. The dwelling was constructed in 1999. Features of the townhome include a partial basement, central air conditioning and an attached 602 square foot garage. The property has a 1,131 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 June 6, 2011 for a price of \$108,000. 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 \$49,982. The subject's assessment reflects a market value of \$149,871 or \$94.62 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.

The board of review submitted a memorandum contending that the subject property was purchased as a foreclosure.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales that occurred between March 2010 and August 2011 for prices ranging from \$116,000 to \$200,000. Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant contended that the sale price of the subject property when an arm's length transaction is synonymous with fair cash value as determined by case law applying the provisions of the Property Tax Code.

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 has given no weight to board of review sale #1 which occurred in March 2010, a date nearly two years prior to the assessment date at issue of January 1, 2012 and therefore less

likely to be indicative of the subject's estimated market value as of the assessment date.

The Board finds the best evidence of market value to be the purchase of the subject property in June, 2011 for a price of \$108,000 which is further supported by board of review comparable sales #2 and #3 which each sold in August 2011 for \$116,000 and \$118,000 each, although these comparables are located in a different subdivision than the subject property.

The Board further finds that the appellant provided evidence demonstrating the sale of the subject 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 five months. In further support of the transaction the appellant submitted a copy of the Settlement Statement depicting the payment of brokers' fees.

The Board finds the purchase price of \$108,000 is below the market value reflected by the assessment of \$149,871. In addition, the two most similar sales to the subject presented by the board of review that were also more proximate to the assessment date of January 1, 2012 establish that the subject property is overvalued based on its assessment.

Furthermore, the Board finds the board of review did not present any substantive evidence to challenge the arm's length nature of the transaction. The Board also 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 the assessment date at issue, January 1, 2012. Furthermore, the Board finds these statutes are instructive as to the appellant's 2012 assessment of the subject property with regard to the purchase of the subject property in foreclosure.

The board of review also did not refute the contention that the purchase price was reflective of market value given that the property was advertised on the open market for a period of five months. Based on this record the Board finds the subject property had a market value of \$108,000 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

K. L. Ferr

Member

[Signature]

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

[Signature]

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.