



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

APPELLANT: Kimberly E. Rappe
DOCKET NO.: 12-04279.001-R-1
PARCEL NO.: 08-203-153-00

The parties of record before the Property Tax Appeal Board are Kimberly E. Rappe, the appellant, by attorney Robert H. Rappe of Codilis & Associates, P.C., in Burr Ridge; and the Jo Daviess 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 **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$10,180
IMPR.: \$69,932
TOTAL: \$80,112

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Jo Daviess 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 frame dwelling with 2,554 square feet of living area. The dwelling was constructed in 2006. Features include a concrete slab foundation, central

air conditioning, a fireplace and a 919 square foot garage. The property has a .62 acre site. The subject property is located in Guiford Township, Jo Daviess County.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant completed Section IV of the residential appeal petition pertaining to the subject's recent sale. The subject property was purchased on March 26, 2012 for \$240,000. The property was sold with the assistance of a Realtor; the property was advertised for sale in the open market through the Multiple Listing Service and the internet; and the buyer and seller were unrelated. The appellant also submitted a sales contract and a settlement statement as supporting evidence of the subject's sale. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect its sale price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$122,282. The subject's assessment reflects an estimated market value of \$366,333 or \$143.44 per square foot of living area including land when using the 2012 three-year average median level of assessment for Jo Daviess County of 33.38% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a narrative letter addressing the appeal and information on four comparable sales. The comparables consist of one-story frame dwellings that were built from 2002 to 2005. Features include full basements that are finished, central air conditioning, one or two fireplaces and garages that contain from 540 to 768 square feet. The dwellings range in size from 1,536 to 1,738 square feet of living area and are situated on sites that contain from .803 of an acre to 1.014 acres of land area. The comparables sold from February 2010 to October 2011 for prices ranging from \$283,800 to \$473,000 or from \$181.46 to \$272.15 per square foot of living area including land.

The evidence shows the comparables had total assessments ranging from \$75,200 to \$102,629. Each comparable sold for a price greater than the subject property; however, each property had a lower total assessment than the subject property.

The board of review also cited portions of Sections 9-155 and 1-55 of the Property Tax Code. (35 ILCS 200/9-55 and 1-55). Section 9-155 of the Property Tax Code provides in part:

the assessor, in person or by deputy, shall actually view and determine as near as practicable the value of each property listed for taxation as of January 1 of that year, . .

Section 1-55 of the Property Tax Code provides;

33 1/3%. One-third of the fair cash value of property, as determined by the Department's sales ratio studies for the 3 most recent years preceding the assessment year, adjusted to take into account any changes in assessment levels implemented since the data for the studies were collected.

The board of review argued the appellant did not purchase the subject property until March 2012, which is after the statutory January 1 assessment date and 2012 was not a quadrennial reassessment year for the township. The board of review claimed property values, pursuant to section 1-55 of the Property Tax Code, are based on the three prior year's sales. Any sales that occur after the January 1 assessment date are considered for the following assessment year if it is a quad revaluation or if the taxpayer requests a reduction. The board of review argued that in a non-quad year, property that sold cannot be singled out and reduced or raised based strictly on that sale without revaluing like property in a quad year revaluation.

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

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 appellant submitted the best evidence of the subject's market value. The Board finds the subject's property sold on March 26, 2012 for \$240,000. The subject's sale occurred a mere 85 days after the January 1, 2012 assessment date and meets the fundamental elements of an arm's-length transaction. The appellant provided un-refuted evidence demonstrating that the parties to the transaction were unrelated; the property was advertised for sale in the open market; and there was no compulsion involved in the transaction. The Illinois Supreme Court has defined fair cash value as 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 of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

The board of review submitted six suggested comparable sales in support the subject's assessed valuation. The Board gave little weight to this evidence. All the comparables are smaller dwellings that have finished basements, unlike the subject. All the suggested comparables are situated on larger sites than the subject. The Board further finds it troubling the fact that each of these properties sold for more than the subject property, yet each suggested comparable has a lower total assessment than the subject, which demonstrates assessment inequity.

The Property Tax Appeal Board further finds the board of review interpretations of the sections 9-155 and 1-55 of the Property Tax Code to be misplaced in this appeal. (35 ILCS 200/9-155 and 1-55). With respect to the subject's January 1, 2012 assessment date, the Property Tax Appeal Board finds the legislature clearly contemplated subsequent events in the assessment process by inserting the language: "On or before **June 1** . . . the assessor, in person or by deputy, shall actually view and **determine as near as practicable the value of each property listed for taxation as of January 1 of that year.** . . and assess the property at 33 1/3% of its fair cash value, or in accordance with Sections 10-110 through 10-140." The Board finds assessors

are statutorily bound to determine a given property's fair cash value as near as practicable **as of** the date of January 1 of a given assessment year. Illinois courts recognized that assessing officials are not barred, as a matter of law, from considering events which occurred after the lien date in assessing properties and subsequent events assessing officials may consider in any individual case will depend on the nature of the event and the weight to be given the event will depend upon its reliability in tending to show value as of January 1. (See Application of Rosewell, 120 Ill. App. 3d 369 (1st Dist. 1983)).

In addition, the Property Tax Appeal Board finds the board of review, unlike the local assessors, has broad authority to correct real property assessments from taxpayers appealing individual assessment that were originally established by local assessors, including considering the sale of the individual property under appeal. Section 16-30 of the Property Tax Code Provides:

Board of review meetings. In counties with less than 3,000,000 inhabitants, the board of review may meet at times it deems necessary for supervising and directing the clerk in the duties prescribed in this Article, and shall meet on or before the first Monday each June to revise the assessment of property. **At the meeting, the board of review upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just.** The assessment of the property of any person shall not be increased unless that person or his or her agent first has been notified in writing at the address that appears on the assessment books, and been given an opportunity to be heard. The meeting may be recessed as necessary. 35 ILCS 200/16-30.

Section 16-55 of the Property Tax Code provides in part:

Complaints. (a) **On written complaint that any property is overassessed or underassessed, the board shall review the assessment, and correct it, as appears to be just,** but in no case shall the property be assessed at a higher percentage of fair cash value than other property in the assessment district prior to equalization by the board or the Department. . .
(e) **The board may also, at any time before its revision of the assessments is completed in every**

year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department. 35 ILCS 200/16-55.

The Board finds the Property Tax Code prescribes different responsibilities to assessors than the boards of review. In limited summary, the board of review, upon written complaint or upon its own motion, shall review the assessment, and correct it, as appears to be just.

In conclusion, the Board finds the subject's 2012 sale price demonstrates the subject's property's assessed valuation as determined by the board of review is excessive. Therefore, a reduction in the subject's assessed valuation is warranted. Since fair market value has been established, the 2012 three-year median level of assessment for Jo Daviess County of 33.38% 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy A. Huff

Member

Mario Morris

Member

J. R.

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: October 24, 2014

Allen Castrovillari

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.