

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Mark & Candace Graham
DOCKET NO.: 06-00640.001-R-1
PARCEL NO.: 15-30-453-007

The parties of record before the Property Tax Appeal Board are Mark & Candace Graham, the appellants, and the McLean County Board of Review.

The subject property consists of a part two and part one-story frame and brick dwelling that was built in 1998 and contains 3,134 square feet of living area. Features include a full unfinished basement, three and one-half bathrooms, central air conditioning, a fireplace and a 1,090 square foot attached garage. The subject property is located in the City of Bloomington Township, McLean County, Illinois.

The appellants appeared before the Property Tax Appeal Board arguing the subject's assessment is not reflective of its fair market value. In support of this argument, a settlement statement was submitted indicating the appellants purchased the subject property for \$325,000 on April 19, 2006. The appeal petition indicated the seller, Land America Onestop, Inc., listed the subject property for sale on the open market through the Realty firm of Brady Weaver GMAC. The settlement statement indicates the seller paid a \$19,500 commission fee to the real estate agent. The appeal petition depicts the subject property was listed for sale through the Multiple Listing Service.

The appellants testified and presented credible documentation indicating the subject property was originally listed for sale on the open market for \$422,900 on June 1, 2004. Subsequently, the subject property went on and off the market with its offering price reduced or was re-listed for sale on the open market at incrementally lower amounts through the Multiple Listing Service. For example, the subject's offering price was \$412,900 on July 5, 2004; \$399,000 on August 9, 2004; \$387,500 on October 13, 2004; \$379,900 on December 8, 2004; \$369,900 on March 15, 2005; \$349,900 on August 24, 2005; and \$329,900 on February 23, 2006. Thus, the appellant calculated the subject property had been listed for sale on the open market for 683 days. The appellants

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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 McLean County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	21,263
IMPR.:	\$	87,092
TOTAL:	\$	108,355

Subject only to the State multiplier as applicable.

testified they looked at several homes to purchase including the subject. The appellants testified they ultimately purchased the subject property after negotiations with the seller for \$325,000 on April 19, 2006.

To test the assessment placed on the subject property by the board of review, which reflects an estimated market value of \$366,400, the appellants' listed the subject property for sale on the open market using Re/Max Choice and the Multiple Listing Service. The evidence and testimony disclosed a listing price was \$379,900 for 28 days before being withdrawn. The appellants testified their real estate agent held two open houses and not a single person viewed the property for the listing price. Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final equalized assessment of \$122,133 was disclosed. The subject's assessment reflects an estimated market value of \$366,326 or \$116.89 per square foot of living area including land using McLean County's 2006 three-year median level of assessment of 33.34%.

In support of the subject's assessment, the board of review submitted a restricted use appraisal of the subject property. The restricted appraisal was prepared by and co-signed by the City of Bloomington Township Assessor, Michael Ireland, and Deputy Township Assessor, Randall D. Hoffman. The report indicates both Ireland and Hoffman are licensed appraisers in the State of Illinois. Hoffman provided testimony in connection with the appraisal report. The appraisal estimated the subject property had an estimated market value of \$372,000 as of January 1, 2006, using the sales comparison approach to value.

The comparables consist of part two and part one-story frame and masonry dwellings. Comparables 1 through 3 are located in Phase I of Hawthorne Hills Subdivision while comparable 4 is located in Phase II like the subject. The dwellings were built from 1990 to 2003 and range in size from 2,986 to 3,210 square feet of living area. Features include unfinished basements, central air conditioning, two and one-half bathrooms, and attached garages ranging in size from 600 to 889 square feet. Comparable 2 has a swimming pool. The comparables sold from June 2004 to September 2006 for prices ranging from \$340,000 to \$415,000 or from \$112.46 to \$131.66 per square foot of living area including land.

The assessor/appraiser adjusted the comparables for differences when compared to the subject in date of sale, size, bathroom count, garage size and other ancillary improvements. Comparable 2 was adjusted for its swimming pool. The adjustments resulted in adjusted sale prices ranging from \$357,203 to \$416,956 or from \$111.27 to \$132.28 per square foot of living area including land. Based on the adjusted sales, the assessor/appraiser estimated the subject property had an estimated market value of \$372,000 or

\$118.70 per square foot of living area including land as of January 1, 2006.

With respect to the subject's sale price, the board of review and assessor argued the seller of the subject property was a relocation company most likely owned by State Farm Insurance Company. They argued sales involving relocation companies tend to typically reflect a measurable difference from the market when compared to sales not involving typical grantors, as tracked and measured in the township assessor's database.

The appraisal report indicates 91 sales occurred in Hawthorne Hills Subdivision, with 23 sales (25.3%) identified as sales involving a relocation company. The witness testified 13 of these 23 sales (56.5%) indicate the same sale price and sale date from the initial purchase by the relocation company to the subsequent individual buyer. The 10 remaining sales had a range of reduction between the recorded relocation purchases and the new sales from 3% to 24%. Therefore, the board of review argued transactions involving relocation companies are not typical buyers or sellers in the market place. This data or analysis was not contained in the restricted appraisal report nor submitted by the board of review. Page 12 of the appraisal report and testimony further indicate an analysis of 28 single-family, two story or part one and part two-story homes that are +/- 3 years of age from the subject. They sold between January 1, 2004, and January 1, 2006, for prices ranging from \$350,000 to \$600,000, with an average sale price of \$442,175. The assessor argued the subject's sale price of \$325,000 fell outside all typical sales from the neighborhood. Again, this analysis was not contained in the restricted appraisal report nor submitted by the board of review. Based on this evidence, the board of review requested confirmation of the subject's assessed valuation.

In rebuttal, the appellants argued the subject property had been listed for sale in the \$360,000 to \$370,000 range for over 250 days without being sold, which dispels the board of review's position the subject property is worth \$366,400. In fact, the appellants argued the property was listed for sale on the open market for \$329,900 for over 60 days before purchase. The appellants also argued appraisal values can be easily manipulated to meet targeted criteria. The appellants also argued the subject property backs to a busy road which negatively impacts its value, as depicted by its sale price.

In response, the assessor argued the subject was overpriced when listed on the market in 2004 for \$422,500. The assessor argued studies of seven sales that sold in 1998 or 1999 and resold in 2004 or 2005 show market appreciation of 3% to 3.5% annually. Again, this study was not submitted for the Board's review. By extension, applying the 3% or 3.5% annual appreciation rate to the subject's original sale price in 1998 of \$300,273, results in estimated market values of \$369,300 and \$382,000 for 2006. (Note: the board of review's evidence indicates the subject dwelling was

constructed in 1999, but the evidence indicates the dwelling was constructed in 1998). The assessor's response also discussed the average number of days properties are listed for sale from the subject's subdivision, arguing the listing of the subject property for 28 days was not a reasonable amount of time. The assessor also believes that since the subject had been listed on the market for such a long period of time, it was overexposed to the market and suffered "stigma" resulting in its lower sale price. Thus, the assessor argued the seller was under duress to sell the property.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject property's assessment is warranted.

The appellants argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellants have overcome this burden.

The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the seller 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 property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). The evidence in this record indicates the subject's transaction was a voluntary sale where the seller was ready, willing, and able to sell but not compelled to do so, and the buyer was ready, willing and able to buy but not forced to do so. The Board finds the subject's sale price was negotiated by the unrelated parties involved in the transaction, which further supports the arm's-length nature of the subject's transaction and sale price. Although the seller was a relocation company, the Board finds this record is void of any credible evidence suggesting the subject's transaction was not of an arm's-length nature. For example, the board of review submitted no witness testimony from the relocation company or any other persons involved in the transaction that would suggest the relocation company was under duress to sell the property for less than its fair cash value. In fact, the Board finds the subject's last listing price of \$329,900 in February 2006, set the upper limit of value for the

subject property. Based on this analysis, the Board finds the best evidence of the subject's fair market value is its April 2006 sale price of \$325,000.

With respect to the appraisal, the Board gave little weight to the final value conclusion. The Property Tax Appeal Board gave diminished weight to comparables 1 through 3. These properties are dissimilar in age when compared to the subject, with no adjustments for the age differences. Furthermore, these comparables are located in Phase I of the subject's subdivision whereas the subject is located in Phase II. Finally, comparables 1 and 2 sold in 2004 and are considered less indicative of the subject's fair market value as of its January 1, 2006, assessment date. One sale is similar to the subject in most respects, however, the Property Tax Appeal Board finds a single comparable sale is not a persuasive indicator of the subject's fair market value nor does it overcome the arm's-length nature of the sale of the subject property. Additionally, this suggested comparable property is five years newer in age when compared to the subject with no adjustment for age difference.

As a final point, the Property Tax Appeal Board finds it problematic that the board of review did not procure an independent appraisal of the subject property from an outside source. The Board notes the appraisal submitted by the board of review was prepared by the assessors from the City of Bloomington Township. Although the appraisal report indicates the appraisers had no present, prospective or personal interest in the subject property, these same assessment officials had the jurisdictional responsibility of initially assessing the subject property, which was appealed by the taxpayers. This calls into question the objectivity of the appraisers who clearly have the statutory duty of assigning the subject's assessed value.

Based on this analysis, the Property Tax Appeal Board finds that the appellants have proven that the subject property is overvalued by a preponderance of the evidence. Since fair market has been established, McLean County's 2006 three-year median level of assessment of 33.34% 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: October 31, 2008



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.