PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Jerry Siedenburg
DOCKET NO.: 06-02724.001-R-1
PARCEL NO.: 18-13-36-229-039

The parties of record before the Property Tax Appeal Board are Jerry Siedenburg, the appellant, and the Stephenson County Board of Review.

The subject property consists of a two-story frame rental dwelling that was built in 1887 and contains 1,766 square feet of living area. Features include an unfinished basement, central air conditioning and two car detached garage. The subject dwelling is situated on a 7,500 square foot lot in Freeport, Illinois.

The appellant 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 appellant purchased the subject property for $47,500 on September 1, 2006. The appeal petition indicated the seller, Federal Home Loan Mortgage Corporation, listed the subject property for sale on the open market through the Realty firm of Pat Brown Realtors. The appellant testified the subject's sale price was negotiated. The appellant's appeal petition also revealed an additional $800 was spent on minor renovation prior to occupancy for a total acquisition cost of $48,300. Based on this evidence, the appellant 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 assessment of $22,067 was disclosed. The subject's assessment reflects an estimated market value of $66,567 or $37.69 per square foot of living area including land using Stephenson County's 2006 three-year median level of assessment of 33.15%.

In support of the subject's assessment, the board of review submitted a packet of evidence prepared by the township assessor's office on behalf of the board of review. The evidence revealed the subject property was purchased in 1994 in an arm's-

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

LAND:	$	3,366
IMPR.:	$	12,646
TOTAL:	$	16,012

Subject only to the State multiplier as applicable.

length transaction for $65,900. The evidence next disclosed the subject property sold in August 2006 for $52,926. A Real Estate Transfer Declaration showed the subject property was not advertised for sale in the open market and the transaction was a court ordered judicial sale resulting from bankruptcy, with the buyer/seller being a financial institution. With respect to the appellant's purchase price of $47,500 in September 2006, the assessor and board or review claim the transaction was not an arms-length transaction because it was sold through a warranty deed by a financial institution. No further explanation was provided. However, under questioning the assessor and board of review acknowledged the subject property was advertised for sale in the open market through a Realtor, the buyer and seller were unrelated, and they had no information whether duress by either party was a factor regarding the subject's final sale price.

In support of the final assessment placed on the subject property, the board or review submitted ten suggested comparable sales with varying degrees of similarity and dissimilarity when compared to the subject. The comparables sold from February 2004 to August 2006 for prices ranging from $52,000 to $96,000 or from $33.33 to $51.27 per square foot of living area including land. The assessor indicated comparable 5 is most similar to the subject in condition, but lacks similar amenities when compared to the subject. Based on these suggested sales, the board of review requested confirmation of the subject's assessed valuation.

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 appellant 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 appellant has 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). Furthermore, section 1-50 of the Property Tax Code defines fair cash value as:

> The 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 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 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 financial institution, the Board finds this record is void of any credible evidence suggesting the subject's transaction was not of an arm's-length nature. The board of review submitted no witness testimony from the seller or any other persons involved in the transaction that would suggest there was duress to sell the property. Furthermore, the foreclosure of any property is a relevant part of the overall market, directly impacts overall property values and should be factored into the marketplace. Based on this analysis, the Board finds the best evidence of the subject's fair market value is its September 2006 sale price of $47,500. To this amount, the Board finds $800 was spent on minor renovation prior to occupancy of the rental dwelling for a total acquisition cost of $48,300 or $27.35 per square foot of living area including land.

The Board further finds the one sale most relied upon by the board of review sold in June 2006 for $52,000 or $33.33 per square foot of living area land. After considering any necessary adjustments to this comparables for differences when compared to the subject, such as land area, dwelling size, condition and features, the Property Tax Appeal Board finds this sale supports the appellant's acquisition cost of the subject property of $48,300 or $27.35 per square foot of living area including land.

Based on this analysis, the Property Tax Appeal Board finds the appellant has proven that the subject property is overvalued by a preponderance of the evidence. Based on this record, the Board finds the subject property has a fair market value of $48,300 or $27.35 per square foot of living area including land. Since fair market has been established, Stephenson County's 2006 three-year median level of assessment of 33.15% 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, 2009

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.