

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Jerry Siedenburg  
DOCKET NO.: 06-02725.001-R-1  
PARCEL NO.: 18-18-01-226-043

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 one-story frame dwelling that was built in 1955 and contains 1,038 square feet of living area. Features include an unfinished basement and one car garage. The subject dwelling is situated on a 6,621 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 \$52,500 on July 31, 2006. The appellant testified the owners/sellers, Scott and Megan Vinney, listed the subject property for sale on the open market. He could not recall the manner in which the subject property was listed. Based on this evidence, the appellant requested a reduction in the subject's assessment.

Under cross-examination, the appellant testified the seller, Scott Vinney, was a former sales agent at his Realtor firm, the Siedenburg Group. The appellant also testified no commission fee was paid by the sellers, which is not typical in a real estate transaction.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$22,427 was disclosed. The subject's assessment reflects an estimated market value of \$67,653 or \$65.18 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

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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: \$ 3,228  
IMPR.: \$ 19,199  
TOTAL: \$ 22,427

Subject only to the State multiplier as applicable.

assessor's office on behalf of the board of review. The assessor indicated the subject property had been leased since September 2005 to the present date by two different individuals, with one tenant moving in into the subject dwelling shortly after its July 2006 sale. A Real Estate Transfer Declaration submitted disclosed the Vinneys (sellers in this appeal) purchased the subject property in December 2004 for \$54,000. A second Real Estate Transfer Declaration showed the appellant purchased the subject from the Vinneys in July 2006 for \$46,000 excluding personal property. The assessor pointed out Megan Vinney, one of the sellers, prepared the Real Estate Transfer Declaration. In addition, the sale price listed on the Real Estate Transfer Declaration of \$46,000 differed significantly from the amount of \$52,500 as listed on the settlement statement submitted by the appellant. Notwithstanding the differing sale amounts, the board of review argued there is no evidence indicating the subject property was advertised for sale on the open market in 2006. Thus, the board of review argued the subject's July 2006 sale was not an arm's-length transaction.

The board of review also submitted a Multiple Listing Service sheet indicating the subject property was listed for sale on the open market in then summer of 2005 for \$65,900. The subject property was listed through the Siedenburg Group, the Realtor firm owned by the appellant. The listing was withdrawn after 51 days on the market.

In support of the final assessment placed on the subject property, the board of review submitted 12 suggested comparable sales with varying degrees of similarity and dissimilarity when compared to the subject. The comparables sold from April 2004 to September 2006 for prices ranging from \$55,000 to \$76,000 or from \$48.70 to \$94.39 per square foot of living area including land. Based on these suggested sales, the board of review requested confirmation of the subject's assessed valuation.

In rebuttal, the appellant argued the 2005 listing of the subject for \$65,900 was withdrawn because only one showing occurred in a two month period. Additionally, the appellant attempted to submitted new comparable sales for the Board's consideration. The Board finds it cannot consider this new evidence. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in guise of rebuttal evidence. (86 Ill.Adm.Code §1910.66(c)).

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 no 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 (2<sup>nd</sup> Dist. 2000). The Board finds the appellant has not 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 (1<sup>st</sup> 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. However, the Board finds the subject's sale involved related parties, which detracts from the arm's-length nature of the subject's transaction and sale price. The testimony and evidence clearly show that one of the sellers was an employee of the appellant's Realty firm at the time of sale. Furthermore, this Board has no confidence in the purchase price(s) detailed in the evidence in this record. The sale price listed on the Real Estate Transfer Declaration of \$46,000 differed significantly than the amount of \$52,500 as listed on the settlement statement submitted by the appellant. The Real Estate Transfer Declaration provides in pertinent part:

Any person who willfully falsifies or omits any information required in this declaration shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses. Any person who knowingly submits a false statement concerning the identity of the grantee shall be guilty

of a Class C misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses.

With the credibility of the Real Estate Transfer Declaration severely diminished, the Property Tax Appeal Board finds there is no independent credible evidence showing the subject property was listed or exposed for sale in the open market for a reasonable amount of time prior to its July 2006 sale price, which does not meet one of the key fundamental elements of an arm's-length transaction. Additionally, the Board finds one of the sellers, Megan Vinney, prepared the Real Estate Transfer Declaration, which is a further detraction regarding the circumstances surrounding the 2006 transaction. Finally, the board finds no commission fee was paid for the subject's 2006 sale, which the appellant testified is not typical in a real estate transaction. Based on all of these enumerated factors, the Board finds the subject's July 2006 sale was not an arm's-length transaction to be considered indicative of the subject's fair cash value.

The Property Tax Appeal Board further finds the board or review submitted 12 suggested comparable sales with varying degrees of similarity and dissimilarity when compared to the subject. The comparables sold from April 2004 to September 2006 for prices ranging from \$55,000 to \$76,000 or from \$48.70 to \$94.39 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$67,653 or \$65.18 per square foot of living area including land. After considering any necessary adjustments to the comparables for differences when compared to the subject, the Board finds the subject's assessed valuation is supported.

Based on this analysis, the Property Tax Appeal Board finds the appellant has not proven that the subject property is overvalued by a preponderance of the evidence. Thus, the Board finds the subject's assessment as established by the Stephenson County Board of Review is correct and no reduction is warranted.

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.



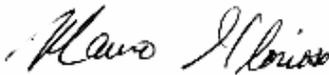
Chairman



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.