



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

APPELLANT: David A. Fehr
DOCKET NO.: 07-01617.001-R-1
PARCEL NO.: 18-05-404-037

The parties of record before the Property Tax Appeal Board are David A. Fehr, the appellant, by attorney Clyde B. Hendricks of Peoria, and the Peoria County Board of Review.

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

LAND: \$2,860
IMPR.: \$10,030
TOTAL: \$12,890

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story frame single-family dwelling which was built in 1909. The dwelling has a concrete slab foundation and contains 974 square feet of living area. The dwelling is in fair condition and has a quality grade assigned by the assessor of C-5.

The appellant appeared before the Property Tax Appeal Board through counsel claiming overvaluation as the basis of the appeal. At the commencement of the hearing, the appellant's counsel agreed that the assessment appeal is comprised of a residential investment rental property wherein the market approach to value was employed to show the subject's assessment was incorrect. Counsel also acknowledged that the grid analysis data submitted on behalf of the appellant included land and

improvement assessment information for the comparables, but there was no argument being made with regard to alleged inequity of assessments.

Appellant's first witness was William Leroy, who prepared the data presented in the grid analysis. Leroy testified that he is a full-time realtor with 25 years experience; during that time he has occasionally done "tax protesting" with the greatest workload in the quadrennial reassessment years. From time to time, Leroy performs this "tax protesting" work with Robert O. Kaiser. Leroy is not a licensed appraiser and does not have any appraisal designations. Based on his professional experience, Leroy contended that investment properties are generally harder to sell because they are in poorer areas, are generally not well maintained, and there is a limited pool of buyers who may be purchasing with cash.

Under cross-examination, Leroy addressed his fee arrangement testifying that his fee is "based on success" (i.e., contingent on the outcome of the appeal) if he does a "good" job he gets paid and if he does a "poor" job he does not get paid.¹ Leroy was also asked about the nature of the sales comparables which were presented: were these foreclosures, bulk sales, estate sales, sales sold by court order, or financial institutions.

On re-direct examination with regard to repossession resales, Leroy testified that any property that is listed and exposed to the open market where offers and counteroffers could be made for the purchase of a property would be a valid sale for consideration. Leroy testified that unlike in the past when reposessed properties were handled directly by the bank, the current practice is to have third-party companies handle the reposessed properties, which are advertised through the Multiple Listing Service thereby making them available and "on the market." Leroy further contended that as long as the sale was not between related parties, the sale would qualify as an arm's-length transaction, regardless of the number of days listed on the market. He did acknowledge, however, that the third-party company will reduce the listing price the more days the property sits on the market.

The second witness called by appellant was Robert O. Kaiser who assisted Leroy in gathering the comparable data. Kaiser is not an appraiser and has no appraisal designations; he was a real estate agent until March 31, 2008, but his primary profession is

¹ Attorney Hendricks indicated that he is compensated for his time on the appeal.

as a certified public accountant. Kaiser has bought and sold hundreds of houses in the local Peoria real estate market over the past 25 years through various companies he has owned.

As set forth in the grid analysis in support of the overvaluation argument, the appellant submitted information on three sales comparables. The properties were improved with one, one and one-half-story and two, two-story frame or brick dwellings that were built between 1912 and 1928. Each comparable has an unfinished basement ranging in size from 595 to 700 square feet of building area. One comparable has a two-car garage and central air conditioning. Two comparables have a fireplace. The comparables have quality grades assigned by the assessor of C and C+5 and are reported to be in fair or "fair plus" condition. The dwellings range in size from 1,121 to 1,400 square feet of living area. The comparables sold between November 2006 and January 2007 for prices ranging from \$21,000 to \$30,600 or from \$15.00 to \$22.76 per square foot of living area including land. In his testimony, Leroy noted that comparable #1 was "way more house" than the subject. Although comparable #1 was a repossession property, it was on the market for 137 days prior to sale according to Leroy and the data submitted. Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$7,040 or to reflect an estimated market value of \$21,120.

On cross-examination, Leroy indicated that he had been in the subject property many years ago, but was unaware of the condition of the property more recently. Upon further questioning by the board of review, Leroy noted that a vacant reposessed property and a vacant rental property are likely to appear similar to a potential buyer since both will have been cleaned up for showing for sale purposes whereas a rental property with a tenant may not show well, the tenant has no vested interest in assisting in making the property presentable for sale and has no interest in cooperating in showing the property for sale. Leroy compared a rental property for sale to an owner-occupied dwelling that is listed for sale which reflects the "pride of ownership," the interest in the owner in selling the property and achieving the highest price for the property.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$12,890 was disclosed. The subject's assessment reflects an estimated market value of \$38,802 or \$39.84 per square foot of living area

including land using the 2007 three-year median level of assessments for Peoria County of 33.22%.

While the board of review reported the subject has a 244 square foot basement, the property record card for the property did not support that contention. The card indicated the subject had no basement and the schematic on the card reflected a crawl-space foundation.

In support of the subject's assessment, the board of review presented descriptions and sales data on three comparable properties, one of which was located in very close proximity to the subject as reflected on a map submitted with the evidence. The board of review noted in testimony that its comparables #1 and #3 were rental properties. The comparables consist of one-story frame dwellings that were built between 1900 and 1914. Each comparable has a basement ranging in size from 269 to 810 square feet of building area, one which includes 390 square feet finished as a recreation room. Two comparables have central air conditioning and one comparable has a garage of 480 square feet of building area. The dwellings range in size from 838 to 1,291 square feet of living area. The comparables have quality grades assigned by the assessor of C, C-5, and D+5 and are reported to be in either fair or "fair plus" condition. These comparables sold between June 2006 and December 2007 for prices ranging from \$41,500 to \$55,000 or from \$42.60 to \$57.16 per square foot of living area including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

On cross-examination, the board of review representatives were asked to explain their position with regard to the condition and/or maintenance of rental property versus owner-occupied properties to which the board indicated it would depend on location and the individual case.

In written rebuttal, the appellant submitted copies of Multiple Listing Service sheets regarding the board of review's comparables. From that data, appellant contended the board of review comparables #2 and #3 reportedly had updated flooring and other items which reflect the maintenance given to an owner-occupied property as opposed to rental property like the subject where tenants do not take care of the property and often help to lessen the property's value. Appellant also noted that board of review comparable #1 was "30%" larger than the subject dwelling. Furthermore, in testimony, Leroy noted that board of review comparable #1 according to the data sheet sold for \$49,000, not

the \$55,000 reported by the board of review, although Leroy could not attest to which figure was accurate.

In response, the board of review noted that the sale price for its comparable #1 was drawn from the property record card which, by standard procedure, is drawn from the Transfer Declaration Form.

After hearing the testimony and reviewing the record, 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's assessment is not warranted.

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the evidence in the record does not support a reduction in the subject's assessment.

The parties submitted a total of six comparable sales for the Board's consideration. The Board gave less weight to appellant's comparables #1 and #3 and board of review comparable #1 due to their "30%" or more greater living area square footage than the subject; in addition, appellant's comparables #1 and #2 were of two-story design and comparable #1 had brick exterior construction which differed from the subject. The Board finds appellant's comparable #2 and board of review comparables #2 and #3 to have been the most similar comparables to the subject in size, design, exterior construction, condition, grade, and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables sold between December 2006 and December 2007 for prices ranging from \$20.07 to \$57.16 per square foot of living area including land. The subject's assessment reflects a market value of approximately \$38,802 or \$39.84 per square foot of living area including land, using the three-year median level of assessments for Peoria County of 33.22%. The Board finds the subject's assessment reflects a market value that falls between the range established by the two most similar comparables on a per square foot basis and less than board of review comparables #2 and #3, each of which feature a basement, central air conditioning, a garage and/or a recreation room not enjoyed by the subject. After considering adjustments to the comparables

for any differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is appropriate and a reduction is not 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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Harold H. Lewis

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: December 23, 2009

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.