



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

APPELLANT: Ron & Leanna Ludwig
DOCKET NO.: 07-01705.001-R-1
PARCEL NO.: 18-18-251-003

The parties of record before the Property Tax Appeal Board are Ron & Leanna Ludwig, the appellants, by attorney Clyde B. Hendricks, Peoria; and the Peoria 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 Peoria County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$680
IMPR: \$2,542
TOTAL: \$3,222**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story frame dwelling that was built in 1920 that contains 902 square feet of living area. The dwelling has a partial unfinished basement.

The appellants submitted evidence before the Property Tax Appeal Board arguing the subject's assessment is not reflective of its fair market value. At the commencement of the hearing, the appellants' 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 acknowledged that the grid analysis data submitted on behalf of the appellants included land and improvement assessment information for the comparables, but there was no argument being made with regard to lack of uniformity.

The appellants' first witness was William Leroy who prepared the evidence on behalf of the appellant. Leroy testified he is a

full-time realtor with 25 years experience and has occasionally done "tax protesting" for that same time period with the greatest workload in the quadrennial reassessment years. At times, 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, 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 potential buyers who may be purchasing with cash.

Under cross-examination, Leroy addressed his fee arrangement. Leroy testified 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. Additionally, the witness testified that some of the comparable properties as well as the subject property in each appeal were inspected. Leroy was asked about the nature of the sales comparables which were presented: were these foreclosures, bulk sales, estate sales, sales sold by court order, or sold by financial institutions.

Under re-direct examination with regard to repossession re-sales, 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 repossessed properties were handled directly by the bank, the current practice is to have third-party companies handle the repossessed properties, which are advertised through the Multiple Listing Service 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 that the third-party company will reduce the listing price the more days the property sits on the market.

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

In support of the overvaluation argument, the appellants completed Section IV of the appeal petition and submitted a settlement statement. The appeal petition indicated the subject property was listed for sale through MLS by a real estate agent for \$20,000. The listing expired after 94 days on the open market. Subsequently, the subject property was sold by owner to the appellants for \$9,000 on March 14, 2007. The appellants spent \$700 in renovation prior to occupancy for a total

acquisition cost of \$9,700. 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 \$4,890 was disclosed. The subject's assessment reflects an estimated market value of \$14,720 or \$16.32 per square foot of living area including land using Peoria County's 2007 three-year median level of assessment of 33.22%.

With respect to the subject's sale price, the board of review argued the subject's sale was "distressed and unusual." Therefore, the board of review did not view the transaction as a qualified arm's-length transaction. In support of the subject's assessment, the board of review submitted a market analysis detailing three suggested comparable sales located within relative close proximity to the subject. The comparables consist of a one-story, a one and one-half, and a two-story frame dwelling that were built from 1900 to 1930. Two comparables have unfinished basements and one comparable has a partial finished basement. Two comparables contain central air conditioning and all the comparables have a garage. The comparables have quality grades assigned by the assessor of C, C-5 and C+5 and are reported to be in average or fair condition. The dwellings range in size from 1,243 to 1,344 square feet of living area. The comparables sold from September 2005 to January 2007 for prices ranging from \$36,500 to \$47,000 or from \$27.99 to \$34.97 per square of living area including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record 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 indicates the 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 this record is void of any credible evidence suggesting the subject's transaction was not of an arm's-length nature. Based on this analysis, the Board finds the best evidence of the subject's fair market value is its March 2007 sale price of \$9,000 plus \$700 in renovation cost for a total acquisition price of \$9,700.

The Property Tax Appeal Board gave little weight to the market analysis submitted by the board of review. The comparables utilized are larger in size than the subject. In addition, comparables 2 and 3 are dissimilar in design when compared to the subject.

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, Peoria County's 2007 three-year median level of assessment of 33.22% 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.



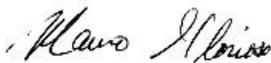
Chairman



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: September 28, 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.