FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: John Romanelli
DOCKET NO.: 07-03220.001-R-1
PARCEL NO.: 06-27-102-006

The parties of record before the Property Tax Appeal Board are John Romanelli, the appellant; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$179,150
IMPR.:	$99,180
TOTAL:	$278,330

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two-story frame and brick single family dwelling with 4,757 square feet of living area. Features of the home include a basement that is partially finished, central air conditioning, two fireplaces and a two-car attached garage. The dwelling was constructed in 1968. The subject has a 45,240 square foot parcel that backs to a golf course and is located in Ginger Creek Subdivision, Oak Brook, York Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant indicated that he purchased the subject property in March 2005 for a price of $835,000. The appellant's documentation disclosed that Romanelli is the president of Romanelli & Associates, Inc., a real estate brokerage firm specializing in Oak Brook and Hinsdale residential properties. He is also president of Romanelli/Design Build, a company that purchases land, rehabilitates residential properties and builds new high end luxury homes. The appellant indicated

that in October 2004 his brokerage firm listed the subject property for sale for a price of $939,000. He testified the property had been listed for 180 days. Two contracts were entered to purchase the property for $850,000 and $835,000 but both deals were never completed and never closed. Romanelli then approached the sellers and offered $835,000 with the sellers paying a 5% commission. Romanelli indicated that his intention was to raze the house and build a new spec home but decided not to do so when he observed the real estate market slowing down. He then rented the property for $2,800 per month. The property is currently vacant and is for rent again.

The appellant also submitted three comparables located near the subject, along the same street and in the same subdivision. The comparables were composed of one or 1.5-story dwellings of brick and wood exterior construction that ranged in size from 2,456 to 3,860 square feet of living area. Each comparable had a basement with two being finished, each had central air conditioning, the comparables had 1, 2 or 3 fireplaces and each had a two or three-car attached garage. The appellant indicated that his comparables 2 and 3 sold in 1995 and 1996 for prices of $397,000 and $875,000, respectively. He also indicated the dwelling on his comparable 3 was removed. These properties had total assessments or $248,110, $251,940 and $379,620, respectively, compared to the subject's total assessment of $326,090.

The appellant also asserted that approximately ½ of the subject lot is not buildable or is not usable because it drops off more than 45 feet. The appellant provide a plat map and photographs depicting the subject.

At the hearing the appellant testified that a home adjacent to the subject sold in June 2008 for a price of $820,000. He noted the property was assessed reflecting a market value of $1,170,030.

Based on this evidence the appellant requested on the petition the subject's total assessment be reduced to $251,000. He testified, however, the request should be adjusted to reflect a market value of $820,000 in light of the sale of the property adjacent to the subject.

Under cross-examination the appellant was questioned about the basis of the appeal as reflected on the petition. The appellant was also questioned about the comments he made with respect to the house being a "tear-down". The appellant indicated that he was of the opinion the purchase price of the subject reflected the value of the property as a "knock down".

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $326,090, which reflects a market value of $978,270, was disclosed. The subject property has an improvement assessment of $146,940 or $30.89 per square foot of living area.

The board of review was represented at the hearing by Anthony Bonavolanta, Chairman of the DuPage County Board of Review. In support of the assessment the board of review submitted Exhibit #1 containing comparables selected by the township assessor's office and an analysis of the comparables submitted by the appellant that was also prepared by the township assessor's office. The board of review called as its witnesses York Township Deputy Assessor Ronald Pajda.

The assessor's office presented information on six comparables composed of two-story for dwellings of frame, brick, masonry or stone construction that ranged in size from 4,164 to 5,144 square feet of living area. The homes were built from 1963 to 1974. Five of the comparables had basements, each comparable has central air conditioning, each of the comparables has one or two fireplaces, one comparable has an in-ground swimming pool, and the comparables have two-car or three-car garages. These properties have total assessments that range from $359,780 to $426,890 and improvement assessments that range from $185,830 to $277,520 or from $44.63 to $53.95 per square foot of living area. The deputy assessor testified the board of review comparables are all located in the subject's neighborhood, are two-story homes, are of similar construction and have similar lot sizes. He also testified comparable 6 backs up to the golf course as does the subject. During his testimony and in his written submission the deputy assessor stated there were 69 two-story dwellings in the subject's subdivision and the subject dwelling had the lowest building assessed value per square foot.

The deputy assessor testified the appellant's comparables are not two-story homes, like the subject, and would have different building assessed values per square foot than a two-story dwelling. Nevertheless, the deputy assessor noted that two of the appellant's comparables had higher improvement assessments per square foot than the subject. The deputy assessor also testified that the appellant's comparable three had the home razed in 2007 and a new home is being constructed.

At the hearing the deputy assessor testified that a property to the west of the subject, improved with a 1.5-story home similar to the subject in age, sold in July 2005 for a price of $968,500. No information about this comparable was submitted by the board of review.

Under cross-examination the deputy assessor noted that two of the comparables sold in August 2005 and July 2007 for prices of $950,000 and $1,060,000 or $228.15 and $224.62 per square foot of living area, respectively.

In rebuttal, the appellant asserted that the comparables were superior to the subject due to their location. The appellant also asserted that the ravine area behind the subject has been covered in water in the past.

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 the appeal. After reviewing the testimony and considering the evidence, the Property Tax Appeal Board finds that the evidence in the record supports a reduction in the assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he 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 Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967).

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 appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value in the record was the sale of the subject property in March 2005 for a price of $835,000. Testimony and evidence in the record disclosed that the appellant's brokerage firm listed the subject property for sale in October 2004 for a price of $939,000. He testified the property had been listed for 180 days. Two contracts were entered to purchase the property for $850,000 and $835,000 but both deals were never consummated and never closed. Romanelli then approached the sellers and offered $835,000 with the sellers paying a 5% commission. The record contains a copy of the closing statement submitted by the appellant noting a sales price of $835,000. The record also contains a copy of the multiple listing service listing sheet for the subject property and a copy of the Illinois Real Estate Transfer Declaration noting a net consideration for the subject of $835,000 submitted by the board of review. The subject's assessment totaling $326,090 reflects a market value of $978,270, which is greater than the purchase price. Based on this evidence the Property Tax Appeal Board

finds the subject's assessment should be reduced to reflect the purchase price of $835,000.

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: November 25, 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.