



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

APPELLANT: Rockford Development Group LLC  
DOCKET NO.: 08-00203.001-R-1  
PARCEL NO.: 11-11-463-002

The parties of record before the Property Tax Appeal Board are Rockford Development Group LLC, the appellant, by attorney Ray A. Ferguson, of Ray A. Ferguson & Associates, LLP in Rockford, and the Winnebago 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 Winnebago County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$3,727  
**IMPR:** \$5,980  
**TOTAL:** \$9,707

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of one and one-half-story single family dwelling of frame exterior construction that contains 1,178 square feet of living area. The dwelling is 108 years old and features an unfinished basement and a one-car garage of 624 square feet of building area. The subject property with a 7,500 square foot site is located in Rockford, Rockford Township, Winnebago County.

The appellant appeared before the Property Tax Appeal Board through legal counsel<sup>1</sup> contending overvaluation based on a recent sale of the subject property. In support of this argument, the appellant indicated on the appeal form that the subject property was purchased in July 2008 for \$29,079. The appellant indicated the subject property was sold by Housing and Urban Development

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<sup>1</sup> When witnesses were sworn, counsel took an oath. Pursuant to Section 1910.70(f) of the Official Rules of the Property Tax Appeal Board, "[a]n attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. . . . Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client." (86 Ill.Admin.Code §1910.70(f))

(HUD) using a Realtor from 5 Points Realty and the property was advertised on the open market for 143 days using the Multiple Listing Service. The property was sold in settlement of a foreclosure and the appellant expended \$1,000 before being able to occupy the property in July 2008. In further support of the purchase price, the appellant attached a copy of the Settlement Statement dated July 7, 2008 and reflecting a contract sales price of \$29,079 with the Seller being The Secretary of Housing and Urban Development.

At hearing, Kyle Johnson, Managing Member of Rockford Development Group, LLC testified regarding the purchase and the minimal repairs that were made to the property including painting, general cleaning, porch repairs, and first floor carpeting was replaced.

Based on this evidence the appellant requested the subject's assessment be reduced to \$9,596 which would reflect a market value of approximately \$28,788.

On cross-examination, Johnson testified that as a rental property, as of the purchase date of July 2008, the subject property was "in near rentable condition." While the Settlement Statement provides for "Lender Held Repair Funds" of \$19,028.73, Johnson testified that he does not believe that entire amount was expended for repair of this property. Johnson further surmised that these funds were tied to both an appraisal of this property and the sale of another property, but he was not sure.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$24,195 was disclosed. The subject's assessment reflects a market value of approximately \$72,484 or \$61.53 per square foot of living area including land when applying the 2008 three year median level of assessments for Winnebago County of 33.38% as determined by the Illinois Department of Revenue.

In response to the appeal, the Rockford Township Assessor presented a memorandum noting "the subject's sale was not valid." No documentation regarding the sale transaction such as the PTAX-203 was submitted by the board of review. At hearing, the board of review representative David Dale Johnson stated the sale was a compulsory sale because it was a foreclosure. Moreover, the board of review felt it did not know the condition of the property as of the assessment date at issue.

In further support of the subject's estimated market value, the assessor presented a grid analysis of three comparable sales located from 0.51 to 0.71-miles from the subject property and included a map depicting their location in relation to the subject. Each comparable was said to have the same assigned neighborhood code by the assessor as the subject property. The comparable parcels range in size from 4,070 to 7,100 square feet of land area. Each is improved with a one and one-half-story frame single-family dwelling ranging in age from 78 to 88 years

old. The comparables range in size from 1,176 to 1,225 square feet of living area and feature basements, two of which include finished area. Two comparables have central air conditioning and each has a garage ranging in size from 180 to 280 square feet of building area. These properties sold between July 2006 and May 2008 for prices ranging from \$78,900 to \$89,900 or from \$67.09 to \$73.39 per square foot of living area including land.

In response to a question from the Hearing Officer, the township officials stated no interior view of the subject property was made in conjunction with the 2008 assessment and the last interior view was in 1984.

Based on this record, the board of review requested confirmation of the subject's estimated market value based on its assessment.

After hearing the testimony and considering the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

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 (3<sup>rd</sup> Dist. 2002). Proof of market value may consist of an appraisal, a recent sale of the subject property, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the evidence in the record supports a reduction in the subject's assessment.

The appellant contends the subject's assessment should be reduced based on the sale of the subject. The evidence disclosed that the subject sold in July 2008 for a price of \$29,079, a mere seven months after the assessment date at issue. The appellant argued that, despite the fact that the subject was sold due to foreclosure, the information provided by the appellant indicated the sale had the elements of an arm's length transaction in that it was advertised on the open market for a reasonable period of time and there is no indication that the parties to the transaction were related.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill. App. 3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill. 2d 158, 161, 226 N.E.2d 265, 267 (1967). 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).

In light of this holding, the comparable sales submitted by the board of review were given less weight. Moreover, each of the comparable sales submitted by the board of review consisted of dwellings that were at least 20 years newer than the subject dwelling and two dwellings featured partially finished basements which was an amenity not enjoyed by the subject. Two of the comparable sales also had central air conditioning which was not present at the subject.

The Board finds the best evidence of the subject's fair market value in the record is the July 2008 sale for \$29,079. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale through the Multiple Listing Service for 143 days and involved a Realtor. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value. While the board of review characterized the sale as 'not valid' and 'compulsory,'<sup>2</sup> the board of review presented no evidence to support those assertions.

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<sup>2</sup> The Board recognizes that Public Act 96-1083 amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

Section 16-183 provides:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

The Board finds the effective date of these statutes is subsequent to assessment date at issue, January 1, 2008. The Board finds there is no language within either provision evidencing a clear expression of legislative intent to give these amendments retroactive effect.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$29,079 on January 1, 2008. The subject's assessment reflects an estimated market value of \$72,484, which is higher than its arm's-length sale price in July 2008. Therefore a reduction is warranted. Since the fair market value of the subject has been established, the Board finds that the 2008 three-year median level of assessment for Winnebago County of 33.38% 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.

*Ronald R. Cuit*

Chairman

*K. L. Ferr*

Member

Member

*Mario M. Louie*

*William R. Lerbis*

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: October 21, 2011

*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.