



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

APPELLANT: Dale Coyne
DOCKET NO.: 08-00225.001-R-1
PARCEL NO.: 06-03-34-303-006-0000

The parties of record before the Property Tax Appeal Board are Dale Coyne, the appellant, by attorney Raymond E. Meader of Tracy, Johnson & Wilson, in Joliet; and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 15,567
IMPR.: \$ 64,943
TOTAL: \$ 80,510

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story frame dwelling containing 2,188 square feet of living area that was built in 1996. Features include a full basement, central air conditioning, and a two car garage.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant completed Section IV of the residential appeal petition disclosing the subject property sold in May 2008 for \$180,000. The appeal petition lists the seller as First Midwest Trust #800/Scott Libersher. The appeal petition indicates the subject property sold by owner, associated with Protown Properties. Protown Properties is listed as Realtor firm. The appeal petition indicates the subject property was not advertised for sale with a notation: "See Exhibit A for explanation." This record did not contain a market Exhibit A; however, there was an unsigned statement that accompanied the appeal petition which states:

The purchaser requested information on the availability of single-family houses for purchase in the area through Protown Properties. No third party broker was involved since Protown is in the real estate business. When a property becomes available, the seller contacted the purchaser and a written contract was negotiated and entered into between the parties. The transaction was arm's length, voluntary, and between a knowledgeable buyer and seller. Neither was under any compulsion to buy or sell.

The appellant also submitted a sales contract and settlement statement to further document that the subject property sold in May 2008 for \$180,000.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$80,510 was disclosed. The subject's assessment reflects an estimated market value of \$242,208 or \$110.70 per square foot of living area including land using Will County's 2008 three-year median level of assessments of 33.24%.

In support of the subject's assessed valuation, the board of review submitted two short memorandums prepared by the township assessor addressing the appeal, property record cards, Real Estate Transfer Declarations and a market analysis detailing seven suggested comparable sales.

In the memorandums, the assessor explained from 2005 to 2007 only six valid sales of the subject's model have occurred within the subdivision. Sale prices ranged from \$235,000 to \$278,000 with a median sale price of \$242,950. Because the subject's 2008 sale price of \$180,000 is so much lower than the other sales of identical models, the subject's sale does not appear to be arm's-length. In addition, assessor argued the subject property was not advertised for sale. The subject's Real Estate Transfer Declaration was submitted, which line 7 depicts the subject property was not advertised for sale. The assessor also argued the seller, Leonard Scott Libersher, is known as an investor in Will County. He is the owner of Protown Properties, Midwest Capital Investments and First Midwest Bank Trust 8100. The memorandum explains Libersher purchases foreclosed properties and flips them. Based on the circumstances surrounding the subject's sale, the board of review argued the subject's sale was not an arm's-length transaction.

The market analysis submitted by the board of review is comprised of seven comparable properties located in subject's subdivision. They are the same "Burdick" model dwelling as the subject. The comparables are two-story frame or brick and frame dwellings that were built from 1994 to 1996. The dwellings each contain 2,188 square feet of living area like the subject. Six comparables

have full basements, one comparable has a partial basement, and one comparable has a concrete slab foundation. All the comparables have central air conditioning and two-car garages. Four comparables have a fireplace. The comparables sold from February 2005 to May 2008 for prices ranging from \$235,000 to \$278,500 or from \$107.40 to \$127.29 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 Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant argued the subject property's assessment was not reflective of its fair market value base on its May 2008 sale price of \$180,000. 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 appellant failed to overcome this burden.

The Illinois Supreme Court defined fair cash value as 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 do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428 (1970). In addition, 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 Property Tax Appeal Board finds the subject's sale does not meet at least one of the fundamental requirements to be considered an arm's-length transaction reflective of fair cash value. The Board finds the preponderance of the evidence clearly shows the subject property was not advertised or exposed for sale on the open market. Therefore, the subject's sale price was given little weight and is not considered indicative of fair market value.

Illinois Courts has stated fair cash value is synonymous with fair market value and is defined as the price a willing buyer would pay a willing seller for the subject property, there being no collusion and neither party being under any compulsion. Ellsworth Grain Company v Property Tax Appeal Board, 172 Ill.App.3d 552, 526 (4th Dist. 1988). Although the appellant's evidence may suggest the subject's transaction was between a willing, knowledgeable buyer and seller, the Board finds the transaction was not advertised for sale in the open market and is not typical of the due course of business and trade. The

subject's Real Estate Transfer Declaration and the appellant's appeal petition clearing establish that the subject property was not advertised for sale. Thus, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price.

Other recognized sources further demonstrate the fact a property must be advertised or exposed in the open market to be considered an arm's-length transaction that is reflective of fair market value. Black's Law Dictionary (referencing Bourjois, Inc. v. McGowan and Lovejoy v. Michels (citation omitted)), states:

"the price a property would command **in the market**" (Emphasis added). This language suggests a property must be publicly offered for sale in the market to be considered indicative of fair market value.

The Board finds there are other credible sources that specify a property must be advertised for sale in the open market to be considered an arm's-length transaction. The Dictionary of Real Estate Appraisal [American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983)], provides in pertinent part:

The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell **in a competitive market** under all conditions requisite to fair sale; The property is **exposed for a reasonable time on the open market**.

Additionally, the Property Assessment Valuation, 2nd edition, states: Market value is the most probable price, expressed in terms of money, that a property would bring if **exposed for sale in the open market** (Emphasis added) in an arm's-length transaction between a willing seller and a willing buyer; a reasonable time is allowed for **exposure to the open market**. (Emphasis added). (International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996)). Since the appellant presented no factual evidence showing the subject property was advertised for sale or exposed to the open market in an arm's-length transaction, the Board gave little weight to the subject's transaction for market value consideration.

Absent an arm-length transaction, Illinois courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989). The Board finds there are two credible market arm's-length sales contained in this record that were submitted by the board of review probative of the subject's January 1, 2008 assessment date. These properties are located in the subject's subdivision and are similar if not

identical to the subject in age, size, style and features. They sold in April 2006 and May 2008 for prices of \$240,000 and \$250,000 or \$109.69 and \$114.26 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$242,208 or \$110.70 per square foot of living area including land. After considering adjustments to these comparables for differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction is warranted.

In conclusion, the Board finds the evidence in this record does not demonstrate the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn R. Lerbis

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: April 22, 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.