FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Home Buyers III LLC
DOCKET NO.: 08-00413.001-R-1
PARCEL NO.: 23-15-05-106-029-0000

The parties of record before the Property Tax Appeal Board are Home Buyers III LLC, the appellant, by attorney Lauren Cooper, of Worsek & Vihon in Chicago; and the Will 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 **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$11,941
IMPR.:	$12,324
TOTAL:	$24,265

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story single-family frame dwelling that was constructed in 1954. The home contains 1,365 square feet of living area and features a slab foundation and an attached 416 square foot garage. The property is located in Steger, Crete Township, Will County.

The appellant submitted a residential appeal 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 March 2008 for a price of $73,000. The appellant indicated the subject property was sold by U.S. Bank, N.A., the property was advertised on the open market through the Multiple Listing Service for 98 days and the sale involved Realtor Michael Olszewski of Area Wide Realty. Furthermore, the parties to the transaction were not related. The appellant also submitted a copy of the Multiple Listing Service (MLS) sheet with an original listing price of $99,900 and a closing statement dated March 19, 2008 disclosing a sales price of $73,000 or $53.48 per square foot of living area, including land. On the MLS sheet, the remarks were "Great

Investment/Property being sold in 'As-is' condition/No survey nor disclosures/Proof of funding must accompany all offers/Pre-approvals not pre-qualifications/Earnest money must be certified funds."

Based on this evidence the appellant requested the subject's assessment be reduced to $24,331 or a market value of approximately $73,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $49,620 was disclosed. The subject's assessment reflects a market value of approximately $149,278 or $109.37 per square foot of living area including land when applying the 2008 three year median level of assessments for Will County of 33.24%.

The board of review submitted a letter from Sandy Drolet, the Crete Township Assessor, along with a map, property record cards and a detailed sales grid analysis depicting three comparable sales. In the letter, the township assessor outlined three reasons to reject the subject's sale price as reflective of market value: (1) the appellant purchased the property from a bank with a special warranty deed for only $73,000 while the subject previously sold in 2005 for $132,000; (2) the owners did not request a reassessment due to the home's poor state, and therefore, it is assumed the home is in average livable condition; and (3) based on comparable sales, the subject's sale in 2008 is not indicative of the subject's true market value.

The grid analysis depicts three sales located in the subject's general neighborhood and subdivision. These properties were described as one-story dwellings of frame or frame and masonry construction that were built between 1954 and 1959. Each home has a slab foundation and a garage ranging from 440 to 684 square feet of building area. One comparable has a fireplace and an above ground pool. The properties range in size from 1,125 to 1,332 square feet of living area. They sold between February 2006 and February 2007 for prices ranging from $130,800 to $150,000 or from $112.62 to $119.26 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its 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 the appeal. The Board further finds the evidence in this 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 (3rd Dist. 2002). Proof of market value may

consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 86 Ill. Admin. Code Sec. 1910.65(c). The Board finds the appellant has met this burden.

The appellant contends the subject's assessment should be reduced based on the sale of the subject as set forth in the record. The evidence disclosed that the subject sold in March 2008 for a price of $73,000. The board of review's evidence contested the arm's-length nature of the sale of the subject property as it was sold by a bank utilizing a special warranty deed.

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 (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 Property Tax Appeal Board further finds the best evidence of the subject's fair market value in this record is the March 2008 sale for $73,000. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale utilizing the Multiple Listing Service 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. The original listing price of $99,900 is also less than the subject's estimated market value as reflected by its assessment.

The appellant's appeal petition clearly establishes that the subject property was advertised for sale for 98 days. Thus, the general public had 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)). The board of review did not provide substantive evidence to dispute the arm's length nature of the sale transaction. The board of review provided three comparable sales that occurred from February 2006 to February 2007. Two of the three sales were less than the subject's market value as reflected in its assessment. The Board finds these sale comparables do not overcome the arm's length nature of the subject's sale transaction. In addition, the board of review assumed the subject's sale price is not indicative of its fair market value as being in "average livable condition" because no permits were acquired for rehabilitation work and no reassessment request was received based on the subject's "poor state." The Board gave this argument little weight. The board finds the MLS sheet depicts the property was sold in "As-Is" condition. The Board finds the subject's sale price is reflective of its condition in March 2008 after being listed on the open market for 98 days.

Since the appellant presented evidence showing the subject property was advertised for sale and exposed to the open market through the MLS in an arm's-length transaction, the Property Tax Appeal Board finds the subject's March 2008 sale price of $73,000 was reflective of its market value.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of $73,000 on January 1, 2008. The subject's assessment reflects an estimated

market value of approximately $149,278, which is substantially higher than its March 2008 sale price. 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 assessments for Will County of 33.24% 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 23, 2011

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.