FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Yong Deok Lee
DOCKET NO.: 08-01400.001-R-1
PARCEL NO.: 19-09-22-101-011-0000

The parties of record before the Property Tax Appeal Board are Yong Deok Lee, the appellant, 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:	$43,718
IMPR.:	$95,890
TOTAL:	$139,608

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story single-family frame and masonry dwelling that is 11 years old. The home contains 4,110 square feet of living area and features a full unfinished basement, central air conditioning, a fireplace, and an attached 829 square foot garage. The property is located in Frankfort, Frankfort 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 July 2008 for a price of $420,000. The appellant indicated the subject property was sold by Emma Mendez, the property was advertised on the open market through the Multiple Listing Service for 2 years and the sale involved Realtor MaryEllen Pickering of Remax. Furthermore, the parties to the transaction were not related. The appellant also submitted a copy of the Real Estate Contract and the closing statement, both of which set forth the purchase price of $420,000.

Based on this evidence the appellant requested the subject's assessment be reduced to $127,690 or a market value of approximately $383,070.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $218,147 was disclosed. The subject's assessment reflects a market value of approximately $656,279 or $159.68 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 two-page letter from Joseph Kral, the Frankfort Township Assessor, along with attachments. The township assessor acknowledged that the appellant purchased the property in July 2008 for $420,000, but the township assessor contends that all property was assessed in the township as of January 1, 2008, "prior to the Appellant's purchase." Moreover, the township assessor contends that the subject was not purchased in an "arm's-length transaction" as the subject was a "short sale 'pre-foreclosure' per the enclosed MLS listing sheet." A copy of the PTAX-203 Illinois Real Estate Transfer Declaration indicating the subject property was purchased in May 2008 for $420,000 and "was advertised for sale" was also included.

The most recent MLS listing sheet for the subject property reflects an original list price of $680,000, a reduced list price of $570,000 and the eventual purchase price of $420,000. Among the remarks was stated "sellers say make an offer! Pre-foreclosure!" The assessor also highlighted various remarks on the MLS sheet concerning the type of flooring, countertops and other amenities of the subject dwelling.

The assessor also reported that the subject property was listed for sale in July 2006 for $849,000 (copy of MLS sheet enclosed). The listing was cancelled in August 2007 according to the assessor. Thereafter the property was listed in August 2007 for $680,000 (the MLS sheet previously cited).

The assessor further reported "appellant furnished NO recent sales on their grid; therefore the assessor used assessment equity only."[1] The assessor set forth four equity comparables said to be located in the subject's subdivision. The Property Tax Appeal Board finds that submission of equity comparables in response to the appellant's market value argument is not responsive and the board of review's equity comparables will not be further addressed herein.

Based on the foregoing data, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

[1] "Recent sale" on the Residential Appeal form directs the taxpayer owner to complete Section IV of the form concerning the sale/purchase of the subject property which was fully completed in this appeal and raised an overvaluation argument as the basis of this appeal.

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 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 (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 July 2008 for a price of $420,000. The information provided by the appellant indicated the sale occurred only seven months after the assessment date at issue of January 1, 2008. The board of review's responsive evidence contested the consideration of a sale after January 1, 2008 and the arm's-length nature of the sale of the subject property as it was sold "pre-foreclosure."

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). Based on the foregoing, even though the sale occurred after January 1, 2008, the Board finds the July sale price may still be the best evidence of the subject's market value as of several months prior.

The Property Tax Appeal Board also finds the best evidence of the subject's fair market value in the record is the July 2008 sale

for $420,000. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale in 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 subject's Real Estate Transfer Declaration and the appellant's appeal petition clearly establish that the subject property was advertised for sale. Thus, the general public did 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)). The board of review did not provide specific substantive evidence to refute the arm's length nature of the sale transaction. 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 July 2008 sale price of $420,000 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 $420,000 on January 1, 2008. The subject's assessment reflects an estimated market value of approximately $656,279, which is substantially higher than its July 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.