



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

APPELLANT: John Liston
DOCKET NO.: 08-01740.001-R-1
PARCEL NO.: 04-26-453-010

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

LAND: \$23,781
IMPR: \$80,925
TOTAL: \$104,706

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 44,890 square foot parcel that is improved with an 8-year old, two-story dwelling of frame and masonry construction containing 3,060 square feet of living area. The home features a full partially finished basement, central air conditioning, two fireplaces, and a three-car garage of 720 square feet of building area. The property is located in Spring Grove, Richmond Township, McHenry County.

The appellant's appeal is based on overvaluation of the subject property. In support of this market value argument, the appellant submitted information on the sale of the subject property and a grid analysis of comparable sales.

As to the sale of the subject property, the appellant reports that the property was purchased in April 2008 for \$315,000 from US Bank. The transaction involved Realtors from both Coldwell Banker and ReMax after the property has been advertised in both the local newspaper and the Multiple Listing Service for 2 years and 11 months. The property was sold as the consequence of a foreclosure action, but the parties to the transaction were not related and the seller's mortgage was not assumed. In further

support, the appellant attached a copy of the PTAX-203 Illinois Real Estate Transfer Declaration noting the property was sold for \$315,000 and was transferred by a Warranty Deed after having been advertised for sale.

The appellant reported four sales comparables located in the same neighborhood code assigned by the assessor as the subject; the properties are said to be from 1 block to 4-miles from the subject. The properties consist of parcels ranging in size from 43,480 to 45,926 square feet of land area which are each improved with a two-story frame or frame and masonry dwelling that ranges in age from 6 to 12 years old. The comparables range in size from 2,675 to 3,100 square feet of living area. Each has a basement that is partially finished, central air conditioning, a fireplace, and a garage of either 900 or 1,000 square feet of building area. The sales occurred from November 2005 to August 2008 for prices ranging from \$315,000 to \$379,500 or from \$109.57 to \$130.00 per square foot of living area including land. Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$105,000 or a market value of approximately \$315,000 as shown by the subject's purchase price.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$141,653 was disclosed. The subject's assessment reflects an estimated market value of \$426,152 or \$139.27 per square foot of living area including land using the 2008 three-year median level of assessments for McHenry County of 33.24%.

In support of the subject's assessment, the board of review presented a memorandum from the Richmond Township Assessor, a corrected grid analysis of the appellant's comparables and various Multiple Listing Service sheets.

The assessor noted appellant's comparable #1 is 23 square feet smaller than appellant reported and has less masonry exterior than the subject. Similarly, comparable #2 was according to the assessor's records 718 square feet smaller than appellant reported, has less masonry exterior and "[t]his neighborhood (Springdale Trails) is not comparable to Spring Grove Estates."¹ The assessor contends comparable #3 is again in a dissimilar neighborhood to the subject and the November 2005 sale was "from a relocation company." Appellant's comparable #4 again is reportedly not in a comparable neighborhood and the sale was not advertised. Lastly, each of the comparables has only one fireplace whereas the subject has two fireplaces. Based on the assessor's records of dwelling size, the appellant's four comparables sold for prices ranging from \$121.59 to \$159.32 per square foot of living area.

As to the subject, the assessor reports it is in an upper scale neighborhood where homes were 'custom' built and selling for over

¹ The assessor did not contend that the reported neighborhood code, which was the same as the one for the subject, was erroneous.

\$475,000; the subject was purchased at 'auction' as a foreclosure.

In support of the subject's estimated market value, the assessor presented "closed sales from current listing which clearly show that this neighborhood is holding its value." There was no grid analysis; there were five individual Multiple Listing Sheets. From those sheets, it appears that two comparables were one-story brick dwellings and three were two-story frame and masonry dwellings. The homes were built between 'new' and 1996. Dwelling sizes were not consistently set forth; each home has a basement and a three-car garage. The first three sheets depict closed sales, two of which occurred in November 2005 and February 2007; no date could be found for the third sale. Those sales ranged from \$455,000 to \$485,000. The fourth and fifth sheets were listings, one dated November 2008 and one dated March 2009, for asking prices of \$475,000 and \$499,000, respectively.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant contends the subject property was not purchased at auction. The appellant also asserts that the board of review's sales were from 2005, the height of the real estate boom, or open listings that for over a year have generated no interest. The appellant also criticized the presentation of one-story dwellings to compare to the subject.

The appellant also disputed various 'corrections' the assessor made to the appellant's evidence.

The appellant also included a copy of the Closing Statement for the subject reflecting the April 2008 sale price of \$315,000.

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 Board further finds a reduction in the subject's assessment is warranted.

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). The Board finds the evidence in the record does support a reduction in the subject's assessment.

The appellant contends in part that 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 April 2008 for a price of \$315,000, a mere four months after the assessment date at issue of January 1, 2008. The information provided by the appellant indicated the sale had the elements of an arm's length transaction. There was no challenge to the contention that the property was listed on the market for 2 years

and 11 months through a Realtor even though the owner was US Bank. The parties to the transaction were unrelated. The board of review's responsive evidence contested the arm's-length nature of the sale of the subject property as it was sold "as a foreclosure." However, the board of review presented no substantive evidence to support the implication that the sale was under duress or in some manner a compulsory sale due to the sale by a lender. While the board of review provided market value evidence of various sales and 'current' listings for prices ranging from \$455,000 to \$499,000, the Board finds this evidence does not overcome the appellant's evidence regarding the April 2008 purchase price of the subject property.

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 Illinois Supreme Court 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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 of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code Sec. 1910.65(c)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

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). Our Supreme Court has at least indicated that a sale of property during the tax year in question is a "relevant factor" in considering the validity of an assessment. [citations omitted]. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

The Property Tax Appeal Board finds the best evidence of the subject's fair market value in the record is the April 2008 sale for \$315,000. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale for 2 years and 11 months in the Multiple Listing Service and involved Realtors. 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 Board further finds that the board of review did not adequately contest the arm's-length nature of the subject's sale. Thus, based on the foregoing facts, the Property Tax Appeal Board finds the

subject's April 2008 sale price of \$315,000 was reflective of market value.

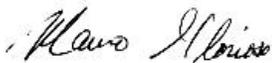
Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$315,000 on January 1, 2008. The subject's assessment reflects an estimated market value of approximately \$426,152, which is substantially higher than its April 2008 sale price. Therefore 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 McHenry 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



Acting 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 18, 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.